

Texas Historical Statutes Project

1943 SUPPLEMENT
TO
VERNON'S TEXAS STATUTES 1936



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VERNON'S TEXAS STATUTES

CENTENNIAL EDITION

1943 SUPPLEMENT

Covering
Laws of General Nature Enacted by the Legislature
at the Regular Session From
January 12, 1943 to January 1, 1944

48th Legislature, Regular Session

TABLES AND INDEX

KANSAS CITY, MO.
VERNON LAW BOOK COMPANY

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TEX. ST. SUPP. '43

THIS VOLUME

THIS 1943 supplement to Vernon's 1936 Centennial Edition contains the laws of a general and permanent nature passed at the Regular Session of the 48th Legislature and connects directly with Vernon's 1942 Supplement.

Annotated Statute Identical in Arrangement. This supplement as well as the Centennial Edition are under the same classification and arrangement as Vernon's Annotated Texas Statutes. This means that users of this volume and of the Centennial Edition may go from any article herein to the same article in Vernon's Annotated Texas Statutes where the complete constructions of the law by state and federal courts, as well as complete historical data relative to the origin and development of the law, is immediately available.

Special Features. The same practical features which have served to popularize the Centennial Edition such as complete index, tables, etc., are continued in this supplement.

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

VERNON LAW BOOK COMPANY

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*

JUDGES AND OFFICERS

Courts of Civil Appeals—Cont'd.

Fourth District—San Antonio

EDWARD W. SMITH, CHIEF JUSTICE

W. O. MURRAY, JUSTICE

JAMES R. NORVELL, JUSTICE

ROBERT L. COOK, CLERK

Fifth District—Dallas

JOEL R. BOND, CHIEF JUSTICE

B. F. LOONEY, JUSTICE

TOWNE YOUNG, JUSTICE

JUSTIN G. BURT, CLERK

Sixth District—Texarkana

GEORGE W. JOHNSON, CHIEF JUSTICE

REUBEN A. HALL, JUSTICE

I. N. WILLIAMS, JUSTICE

R. B. HOLLINGSWORTH, CLERK

Seventh District—Amarillo

B. L. PITTS, CHIEF JUSTICE

W. N. STOKES, JUSTICE

CLAYTON HEARE, JUSTICE

J. M. OAKES, CLERK

Eighth District—El Paso

P. R. PRICE, CHIEF JUSTICE

ANDERSON M. WALTHALL, JUSTICE

C. R. SUTTON, JUSTICE

JOSEPH MCGILL, SPECIAL COMMISSIONER

J. I. DRISCOLL, CLERK

Ninth District—Beaumont

DANIEL WALKER, CHIEF JUSTICE

WILLIAM B. O'QUINN, JUSTICE

J. M. COMBS, JUSTICE

W. G. WOODARD, CLERK

Tenth District—Waco

BEN H. RICE, JR., CHIEF JUSTICE

JAKE TIREY, JUSTICE

JOSEPH W. HALE, JUSTICE

RUTH SAPP, CLERK

Eleventh District—Eastland

WILLIAM PHARMER LESLIE, CHIEF JUSTICE

O. C. FUNDERBURK, JUSTICE

CLYDE GRISSOM, JUSTICE

DAN CHILDRESS, CLERK

OFFICIALS
OF
THE STATE OF TEXAS

GOVERNOR : - - - - - Coke R. Stevenson - Junction
LIEUTENANT GOVERNOR - - John Lee Smith - Throckmorton
SECRETARY OF STATE - . . . - Sidney Latham - Longview
ATTORNEY GENERAL - . . - Gerald C. Mann - Dallas

OFFICERS AND MEMBERS OF THE FORTY-EIGHTH LEGISLATURE

SENATE

PRESIDENT - - - - - John Lee Smith
 PRESIDENT PRO TEMPORE AD INTERIM - A. M. Aikin, Jr.
 SECRETARY OF THE SENATE - - - - - Bob Barker

<i>Name</i>	<i>District</i>
Aikin, A. M., Jr. - - - - - Paris - - - - -	8
Beck, E. Harold - - - - - Texarkana - - - - -	1
Brownlee, Houghton - - - - - Austin - - - - -	20
Bullock, Pat - - - - - Snyder - - - - -	24
Chadick, T. C. - - - - - Quitman - - - - -	7
Cotten, Clay - - - - - Palestine - - - - -	6
Fain, Clem - - - - - Livingston - - - - -	5
Formby, Marshall - - - - - McAdoo - - - - -	30
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Hazlewood, Grady - - - - - Amarillo - - - - -	31
Jones, Chas. R. - - - - - Bonham - - - - -	9
Kelley, Rogers - - - - - Edinburg - - - - -	27
Lane, Wardlow W. - - - - - Center - - - - -	2
Lanning, R. C. - - - - - Jacksboro - - - - -	22
Lemens, Vernon - - - - - Waxahachie - - - - -	12
Lovelady, Karl L. - - - - - Meridian - - - - -	21
Martin, Jesse E. - - - - - Fort Worth - - - - -	28
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Metcalf, Penrose B. - - - - - San Angelo - - - - -	25
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Ramsey, Ben - - - - - San Augustine - - - - -	3
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Stone, William E. - - - - - Galveston - - - - -	17
Sulak, L. J. - - - - - LaGrange - - - - -	15
Vick, Kyle - - - - - Waco - - - - -	13
Weinert, R. A. - - - - - Seguin - - - - -	19
Winfield, H. L. - - - - - Fort Stockton - - - - -	29
York, J. Alton - - - - - Bryan - - - - -	14

HOUSE OF REPRESENTATIVES

SPEAKER - - - - - Price Daniel
 CHIEF CLERK - - - - - Clarence Jones

<i>Name</i>	<i>District</i>
Allison, Mack	Stephenville - 105
Avant, Robert	Marshall - 5
Baker, Noel	Gilmer - 4
Bell, John J.	Cuero - 68
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Bundy, M. A. Bill	Wichita Falls - 111-2
Burkett, Omar	Cisco - 107f
Calloway, Claude	Crowell - 114
Carlton, Leonard	Commerce - 42f
Carrington, Joe C.	Austin - 82-2
Cato, Arthur	Weatherford - 103
Celaya, Augustine	Brownsville - 72
Chambers, W. R.	May - 125
Chesser, E. C.	Groveton - 28
Clark, Lester	Breckenridge - 108
Coker, A. W.	Huntsville - 29
Colson, Mrs. Neveille H.	Navasota - 27f
Connelly, John	Trenton - 41
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Cross, Jack	Mt. Pleasant - 35
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Deen, Tom W.	Floydada - 120
Donald, Paul	Bowie - 47
Dove, Dan	Mexia - 61
Duckett, L. L.	East Bernard - 22
Dunn, Winford L.	De Kalb - 1
Dwyer, Pat	San Antonio - 78-2
Ellis, J. T.	Maxwell - 81-1
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Evans, Roger Q.	Denison - 44-1
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Fitzgerald, H. S.	Stamford - 115
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HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
Fuchs, R. A.	Brenham - 24
Gandy, Joe W.	Winnsboro - 126f
Gardner, C. C.	Gainesville - 46
Garland, W. R.	Annona - 36
Geraughty, Pat	Corsicana - 58
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Halsey, Hop	Lubbock - 119
Hanna, Sam	Dallas - 50-3
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Hartzog, Howard G.	Port Lavaca - 69
Helpinstill, Jewell	Nacogdoches - 9
Hileman, J. K.	Atlanta - 2
Hobbs, M. A.	Hallettsville - 23
Howard, George F.	Houston - 19-1
Hoyo, John C.	San Antonio - 78-5
Huddleston, Earl	Oglesby - 94
Huffman, Cal	Eagle Pass - 87
Hull, H. A. (Salty)	Fort Worth - 101-3
Humphrey, Joe C.	Abilene - 116
Hutchins, Edgar	Greenville - 40
Hutchinson, Everett	Hempstead - 20
Isaacks, S. J.	El Paso - 89-1
Jones, Albert M.	Valley Mills - 98f
Kinard, DeWitt	Port Arthur - 15f
King, A. H.	Throckmorton - 113
Kirby, Dann	El Paso - 90f
Klingeman, Fred V.	Karnes City - 79
Knight, Roger A.	Madisonville - 56
Lansberry, Chas. V.	Round Rock - 84f
Lasseter, E. H.	Henderson - 8
Lehman, Henry G.	Giddings - 65f
Leonard, Homer L.	McAllen - 73
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Love, Jack	Fort Worth - 101-1
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Lyle, John E.	Corpus Christi - 71
McAlister, Obel L.	Fort Worth - 101-2
McCann, Newton W.	Texarkana - 3f
McDonald, W. T.	Bryan - 26
McFarland	Wichita Falls - 111-1
McGlasson, Eugene	Waco - 97-2

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
McLellan, C. S. - - - - -	Eagle Lake - - - - - 25
McMurry, Houston - - - - -	Henrietta - - - - - 110
McNamara, Gene - - - - -	Waco - - - - - 96f
Manford, Durwood - - - - -	Smiley - - - - - 67
Mangum, Preston - - - - -	Dallas - - - - - 51f
Manning, Rushing - - - - -	Center - - - - - 10
Markle, Donald - - - - -	Galveston - - - - - 18
Matthews, Wayne - - - - -	Gladewater - - - - - 33f
Mills, Roger Q. - - - - -	Wichita Falls - - - - - 112f
Montgomery, Wm. Calvin - - - - -	Houston - - - - - 19-3
Moore, Carlton - - - - -	Houston - - - - - 19-2
Moore, Choice - - - - -	Bonham - - - - - 38f
Moore, O. H. - - - - -	De Leon - - - - - 104
Morgan, M. B. - - - - -	Denison - - - - - 44-2
Morse, R. Emmett - - - - -	Houston - - - - - 19-4
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Overton, J. A. (Jack), Jr. - - - - -	Palestine - - - - - 55
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Senterfitt, R. E. - - - - -	San Saba - - - - - 93
Sharpe, Ben - - - - -	Paris - - - - - 37
Shell, Harvey J. - - - - -	Gregory - - - - - 70
Simpson, Marvin B., Jr. - - - - -	Fort Worth - - - - - 101-4
Smith, J. O. - - - - -	Elgin - - - - - 127
Smith, Magus F. - - - - -	Pleasanton - - - - - 76
Smith, Will L. - - - - -	Beaumont - - - - - 16-1
Spacek, R. B. - - - - -	Fayetteville - - - - - 66
Stanford, James A. - - - - -	Austin - - - - - 82-1
Stinson, Jeff D. - - - - -	Dallas - - - - - 50-1
Storey, Cecil - - - - -	Longview - - - - - 6f

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
Stubbs, John Peter - - - - -	Wortham - - - - - 57
Suiter, Elizabeth - - - - -	Winnsboro - - - - - 34
Summers, Burke T. - - - - -	Big Spring - - - - - 91
Svadlenak, Frank - - - - -	Thrall - - - - - 83
Vale, A. J. - - - - -	Rio Grande City - - - - - 74
Voigt, Frank B. - - - - -	New Braunfels - - - - - 80
Walker, D. B. - - - - -	Hillsboro - - - - - 60f
Walters, Thomas - - - - -	Pickton - - - - - 39
Wattner, Victor E. - - - - -	Canton, R. 1 - - - - - 53
Westbrook, Manor W. - - - - -	Magnolia Springs - - - - - 13
Whitesides, W. M. - - - - -	Troup, Route 3 - - - - - 31
Williamson, W. A. - - - - -	San Antonio - - - - - 78-1
Winfree, J. E. - - - - -	Houston - - - - - 19-5
Wood, Hugh - - - - -	Bronson - - - - - 11
Young, Chas. H. - - - - -	Kyle - - - - - 81-2

TEXAS RULES OF CIVIL PROCEDURE

Showing articles of Vernon's Annotated Civil and Criminal Statutes deemed to be repealed by the Texas Rules of Civil Procedure and the Rule number where such article is referred to.

Vernon's Ann.Civ.Stats. Art.	Rules of Civ.Proc. Rule	Vernon's Ann.Civ.Stats. Art.	Rules of Civ.Proc. Rule	Vernon's Ann.Civ.Stats. Art.	Rules of Civ.Proc. Rule
10	3	958	590	1825	394
24	14	959	591	1836b	456
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282	593	1391	29	1837	Repealed
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284	594	1739	467	1839	386
285	596	1740	469	1840	430
286	597	1741	469	1840a	430
289	598	1742	468	1841	387
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295	603, 617	1746	Repealed	1845	402, 389
296	604, 618	1747	485	1846	402
297	605	1755	497	1847	411
298	606	1756	476	1848	412, 414
299	607	1757	418	1849	410
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318	76	1759	478	1851	461
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935	346	1766	500	1858	436
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939	350	1770	504	1862	440
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953	586	1791	521	1875	455
954	587	1799	518	1876	451
955	588	1800a, § 6	519	1877	458
956	589	1800a, § 11	518	1878	460
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			518	1880	460

TEXAS RULES OF CIVIL PROCEDURE

Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.
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1882	471	2039	109, 116	2125	216
1883	472	2040	111	2126	Repealed
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1976	811	2047	121	2139	224
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1978	812	2049	123	2141	225
1979	813	2050	124	2142	227
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TEXAS RULES OF CIVIL PROCEDURE

Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.
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2187	275	2262	362	2426	553
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2194	282	2268	357	2433	560
2195	283	2269	358	2434	561
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2199	287	2273	366	2438	565
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2206	294	2281	Repealed	2445	621
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2211	301	2288	18	2452	Repealed
2213	49	2289	77	2453	635
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TEXAS RULES OF CIVIL PROCEDURE

Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.
Art.	Rule	Art.	Rule	Art.	Rule
3753	200	3976	738	4658	Repealed
3754	201	3977	739	4659	691
3755	202	3978	740	4661	692
3756	203	3979	741	4662	385
3758	204	3980	742	4663	693
3759	205	3981	743	4670	Repealed
3760	206	3982	744	5074	93
3761	207	3983	745	5228	610, 611
3762	208	3984	746	5229	612
3763	210	3985	747	5230	613
3764	211	3986	748	5231	614
3765	212	3987	749	5233	602, 615, 616
3766	213	3988	750	5234	619
3767	214	3989	751	5235	620
3768	215	3990	752	5540	94
3769	188	3991	753	5546	93
3769c	182	3991	753	6083	756
3770	622	3993	755	6084	757
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3812	650	4326	343	6843	698
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3814	649	4647	682	6849	701
3815	651	4648	Repealed	6850	702
3821	652	4649	684	6851	703
3822	653	4650	685	6852	704
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3828	654	4652	688	6854	706
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3911	17	4655	686	6857	709
		4657	690	6859	710

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Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.
Art.	Rule	Art.	Rule	Art.	Rule
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6861	712	7379	794	7406	721
6862	713	7380	796	7407	722
6863	714	7381	797	7408	723
6864	715, 716	7382	798	7410	725
6875	16	7383	799	7411	726
7365	795	7384	800	7412	726
7366	783	7385	801	7413	727
7367	Repealed	7386	802	7414	728
7368	786	7387	803	7415	729
7369	787	7388	804	7416	730
7370	784	7389	805	7419	731
7371	785	7390	806	7420	732
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CODE OF CRIMINAL PROCEDURE.

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Art.	Rule
644	267
647	267

*

CONSTITUTION OF THE STATE OF TEXAS

AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 49a

It shall be the duty of the Comptroller of Public Accounts in advance of each Regular Session of the Legislature to prepare and submit to the Governor and to the Legislature upon its convening a statement under oath showing fully the financial condition of the State Treasury at the close of the last fiscal period and an estimate of the probable receipts and disbursements for the then current fiscal year. There shall also be contained in said statement an itemized estimate of the anticipated revenue based on the laws then in effect that will be received by and for the State from all sources showing the fund accounts to be credited during the succeeding biennium and said statement shall contain such other information as may be required by law. Supplemental statements shall be submitted at any Special Session of the Legislature and at such other times as may be necessary to show probable changes.

From and after January 1, 1945, save in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each House, no appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made shall be valid. From and after January 1, 1945, no bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the Comptroller of Public Accounts endorses his certificate thereon showing that the amount appropriated is within the amount estimated to be available in the affected funds. When the Comptroller finds an appropriation bill exceeds the estimated revenue he shall endorse such finding thereon and return to the House in which same originated. Such information shall be immediately made known to both the House of Representatives and the Senate and the necessary steps shall be taken to bring such appropriation to within the revenue, either by providing additional revenue or reducing the appropriation.

For the purpose of financing the outstanding obligations of the General Revenue Fund of the State and placing its current accounts on a cash basis the Legislature of the State of Texas is hereby authorized to provide for the issuance, sale, and retirement of serial bonds, equal in principal to the total outstanding, valid, and approved obligations owing by said fund on September 1, 1943, provided such bonds shall not draw interest in excess of two (2) per cent per annum and shall mature within twenty (20) years from date. Adopted election Nov. 3, 1942.

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PROPOSED AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

§ 51-e.

Each incorporated city and town in this State shall have the power and authority to provide a system of retirement and disability pensions for its appointive officers and employees who have become disabled as a direct and proximate result of the performance of their duties, or have passed their sixty-fifth birthday, or have been employed by such city or town for more than twenty-five (25) years and have passed their sixtieth birthday, when and if, but only when and if, such system has been approved at an election by the qualified voters of such city or town entitled to vote on the question of issuance of tax supported bonds; provided that no city or town shall contribute more than the equivalent of seven and one half (7½) per centum of salaries and wages of the officers and employees entitled to participate in its pension system, and that said officers and employees shall contribute a like amount; and this Amendment shall not reduce the authority nor duty of any city or town otherwise existing.

Approved April 22, 1943.

Proposed by House Joint Resolution

No. 8, Acts 1943, 48th Leg., p. 1142. For submission to the people, Nov. 7, 1944.

§ 51-f.

The Legislature of this State shall have the authority to provide for a system of retirement and disability pensions for appointive officers and employees of cities and towns to operate Statewide or by districts under such a plan and program as the Legislature shall direct and shall provide that participation therein by cities and towns shall be voluntary; provided that the Legislature shall never make an appropriation to pay any of the cost of any system authorized by this Section.

Approved April 22, 1943.

Proposed by House Joint Resolution No.

8, Acts 1943, 48th Leg., p. 1143. For submission to the people, Nov. 7, 1944.

ARTICLE VIII

TAXATION AND REVENUE

§ 9.

The State tax on property, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed thirty-five (35) cents on the one hundred dollars valuation; and no county, city or town shall levy more than twenty-five (25) cents for city or county purposes, and not exceeding fifteen (15) cents for roads and bridges, and not exceeding fifteen (15) cents to pay jurors, on the one hundred dollars valuation, except for the payment of debts incurred prior to the adoption of the Amendment September 25, 1883; and for the erection of public buildings, streets, sewers, waterworks and other permanent improvements, not to exceed twenty-five (25) cents on the one hundred dollars valuation, in any one year, and except as is in this Constitution otherwise provided; provided, however, that the Commissioners Court in any county may re-allocate

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the foregoing county taxes by changing the rates provided for any of the foregoing purposes by either increasing or decreasing the same, but in no event shall the total of said foregoing county taxes exceed eighty (80) cents on the one hundred dollars valuation, in any one year; provided further, that before the said Commissioners Court may make such re-allocations and changes in said county taxes that the same shall be submitted to the qualified property tax paying voters of such county at a general or special election, and shall be approved by a majority of the qualified property tax paying voters, voting in such election; and, provided further, that if and when such re-allocations and changes in the aforesaid county taxes have been approved by the qualified property tax paying voters of any county, as herein provided, such re-allocations and changes shall remain in force and effect for a period of six (6) years from the date of the election at which the same shall be approved, unless the same again shall have been changed by a majority vote of the qualified property tax paying voters of such county, voting on the proposition, after submission by the Commissioners Court at a general or special election for that purpose; and the Legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified property tax paying voters of the county voting at an election to be held for that purpose shall vote such tax, not to exceed fifteen (15) cents on the one hundred dollars valuation of the property subject to taxation in such county. And the Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws. This section shall not be construed as a limitation of powers delegated to counties, cities or towns by any other section or sections of this Constitution.

Approved April 6, 1943.

Proposed by House Joint Resolution No.

18, Acts 1943, 48th Leg., p. 1143. For
submission to the people, Nov. 7, 1944.

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TITLE 4—AGRICULTURE AND HORTICULTURE

CHAPTER ONE—COMMISSIONER OF AGRICULTURE

Art.

51—1. New; repealed.

Art. 51—1. Repealed. Acts 1943, 48th Leg., p. 81, ch. 64, § 1. Effective 90 days after May 11, 1943, date of adjournment

Article derived from Acts 1937, 45th Leg., 1st C.S., p. 1794, ch. 23, related to state-owned jacks and stallions.

Sections 2-6 of the repealing Act of 1943, read as follows:

"Sec. 2. The Commissioner of Agriculture of the State of Texas is hereby authorized and directed to dispose of such jacks and stallions as are now owned by the state, and which have been used for breeding purposes through placements by the State Department of Agriculture with caretakers on an annual lease basis.

"Sec. 3. Upon the final passage of this Act the Commissioner of Agriculture shall dispose of all state owned jacks and stallions to the Commissioners Courts of the different counties of the state in a manner which will entail the least possible expense, and in the discretion of the Commissioner with the aim of best serving the needs of stockmen and farmers and the interests of the state.

"Sec. 4. In event the Commissioner is unable to dispose of the said jacks and stallions, as hereinbefore provided, he is hereby authorized to dispose of same to their present caretakers through the leasing of said animals for a period of ninety-nine (99) years, without further obligations on the part of said caretakers except that such caretakers, upon acceptance of said animals, shall absolve the Commissioner of Agriculture and the State of Texas from any and all obligations in connection with any former care of said ani-

mals; and provided further, that in event the Commissioner is unable to dispose of said jacks and stallions in the manner, or manners, hereinbefore provided, he shall tender same to the Texas Agricultural and Mechanical College, or its branches and/or the Texas Technological College for experimental purposes; and provided further, that in event the Commissioner is unable to dispose of such animals to either the Commissioners Courts, or to present caretakers or to the State Institutions as herein set out, he shall then notify the State Board of Control of his inability to place such animals and the State Board of Control shall assume control over such animals and make disposal under the authority vested in said Board.

"Sec. 5. When the animals hereinbefore mentioned have been disposed of, and all expenses of making such transfers and disposals have been paid, all remaining funds in the jack and stallion account shall revert to the General Revenue Fund of the state.

"Sec. 6. The Commissioner shall obtain from all persons or agencies to whom delivery of animals is made a receipt for such animals, and title to all animals delivered in accordance with the provisions of this Act shall vest in the agency of the state receiving such animals without the furnishing of a bill of sale."

Section 7 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

CHAPTER TWO—STATE SEED AND PLANT BOARD

Art. 57. State Seed and Plant Board; membership; meetings; requiring applicant's appearance; prescribing inspectors' qualifications

The State Seed and Plant Board (formerly designated as the State Board of Plant Breeder Examiners) shall be composed, ex-officio, of the Chief of the Division of Field Seed Certification of the State Department of Agriculture, the Head of the Department of Genetics of the Agricultural and Mechanical College of Texas, and the Head of the Department of Plant Industry of the Texas Technological College. Said Board shall elect annually one of their number as chairman and another as secretary. The Board shall meet at such times and places as the chairman may order. All applicants for license as Registered Plant Breeder and Certified Seed Grower shall furnish such information as the Board may require and shall appear in person before said Board if the Board requests it. The Board shall prescribe the qualifications of inspectors that may be employed under this law. As amended Acts 1943, 48th Leg., p. 264, ch. 163, § 1.

Filed without the Governor's signature,
April 23, 1943.
Effective April 23, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER SIX.—FRUITS AND VEGETABLES

[Art. 118a.] Statement of Purpose

Public Weighers

Sec. 19. Under the terms of this Act all citrus fruit purchased by weight prior to packing by any buyer or shipper, shall be weighed at the instance and expense of buyer, by a duly elected or appointed public weigher, who shall be governed in his rights and duties by the Statutes of the State of Texas covering public weighers as set out in the 1925 Revised Civil Statutes of the State of Texas, Title 93, Chapter 6, Article 5680, and any amendments thereto; and it shall be the duty of the buyer or shipper to deliver such certificates of weight issued by the public weigher to the seller, prior to any accounting or settlement between the buyer or shipper and the seller, on all citrus fruit purchased by weight prior to packing. Said public weigher shall receive for his services hereunder a fee of Ten (10) Cents when the net load weighs seven thousand (7,000) pounds, or less; a fee of Fifteen (15) Cents when the net load weighs in excess of seven thousand (7,000) pounds and not more than fourteen thousand (14,000) pounds; a fee of Twenty (20) Cents when the net load weighs in excess of fourteen thousand (14,000) pounds, said fees to be in full payment for each completed certificate showing net weight. As amended Acts 1943, 48th Leg., p. 200, ch. 119, § 1.

Approved and effective April 8, 1943.
Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

CHAPTER SEVEN A.—PLANT DISEASES AND PESTS

Art.

135b—1. Insecticides and fungicides; labeling; coloring; registration; analysis; forfeiture; fraud in sale; exemptions [New].

Art. 135b—1. Insecticides and fungicides; labeling; coloring; registration; analysis; forfeiture; fraud in sale; exemptions

Section 1. (a) The term "agricultural insecticide" as used in this Act shall include any substance or mixture of substances offered for use for preventing, destroying, repelling, or mitigating any insects or pests which may infest agricultural crops, including fruits, vegetables, ornamentals, shade and forest trees.

(b) The term "Paris green" as used in this Act shall include the product sold as Paris green and chemically known as aceto-arsenate of copper.

(c) The term "calcium arsenate" as used in this Act shall include the product or products sold as calcium arsenate and consisting chemically of products derived from arsenic acid (H_3ASO_4) by replacing one or more hydrogen atoms by calcium.

(d) The term "fungicide" as used in this Act includes any substances or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi, including rusts, smuts, mildew, molds, yeasts, and bacteria that may infest vegetation.

(e) The term "insect" shall include the forms of life to which the term insects is technically applied.

(f) The term "pests" shall include mites, ticks, rodents and weeds, and all other things generally referred to as pests; provided, however, that the specific enumeration included herein shall not exclude under this definition those things generally referred to as pests.

Adulterated products

Sec. 2. For the purpose of this Act a product shall be deemed to be adulterated in the following cases:

(a) In the case of Paris green: First, if it does not contain at least fifty (50%) per centum of arsenious oxide; second, if it contains arsenic in water-soluble forms equivalent to more than three and one-half ($3\frac{1}{2}\%$) per centum of arsenious oxide; third, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

(b) In the case of powdered standard lead arsenate, also known as acid or diortho lead arsenate: First, if it contains total arsenic equivalent to less than thirty (30%) per centum of arsenic oxide (AS_2O_5); second, if it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths (75/100%) per centum of arsenic oxide (AS_2O_5); third, if any substance has been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength; provided, however, that extra water may be added to lead arsenate if the resulting mixture is labeled arsenate of lead and water, the percentage of extra water being plainly and correctly stated on the label.

(c) In the case of calcium arsenate: First, if it contains total arsenic equivalent to less than forty (40%) per centum of arsenic oxide (AS_2O_5); second, if it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths (75/100%) per centum of arsenic oxide (AS_2O_5); third, if any substance has been mixed and packed

with it so as to reduce or lower or injuriously affect its quality or strength.

(d) In the case of agricultural insecticides or fungicides, other than Paris green, lead arsenate and calcium arsenate: first, if its strength or purity fall below the professed standard of quality under which it is sold; second, if any substance has been mixed and packed with it so as to reduce, lower or injuriously affect its quality or strength; third, if it is intended for control of insects or diseases on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling, or mitigating insects or diseases, shall be injurious to such vegetation when properly used, except in the case of weed killing chemicals.

Coloring

Sec. 3. It shall be unlawful to sell or offer for sale within the state, any white powdered agricultural insecticide or fungicide, highly toxic to man, unless such agricultural insecticide or fungicide is distinctly colored.

Misbranded articles

Sec. 4. For the purpose of this Act an article shall be deemed misbranded:

(a) If it be an imitation or offered for sale under the name of another article.

(b) If it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, unless relabeled to conform with the provisions of this Act.

(c) If the statements required in Section 5 are not branded or set forth on the label of each package.

(d) If any false or misleading statements are made on the package or in any printed matter accompanying the package.

Branding and labeling

Sec. 5. All corporations, firms, or persons, before selling or offering for sale any agricultural insecticide or fungicide for use within this state, shall brand or attach to each package a plainly printed statement, showing the brand or name of said insecticide or fungicide; the net weight, or volume if liquid, of the contents of the package; the name and address of the corporation, firm, or person registering said insecticide and the minimum percentage guaranteed to be present, of total arsenic, and the maximum percentage of water-soluble arsenic if such are present, and the names and percentage amounts of each inert ingredient; or, in place of the names and percentage amounts of each inert ingredient, the names and percentage amounts of each and every ingredient having insecticidal or fungicidal properties, and the total percentage of inert ingredients. All branding or labeling must be durable and legible, and so placed and arranged as to be easily read.

If any form of mineral oil is a component part, or the whole of an agricultural insecticide or fungicide intended to be used on vegetation, the label shall further show the minimum guaranteed percentage by weight or by volume of the amount of mineral oil present, the minimum guaranteed unsulphonated residue of said oil expressed in percentage of said oil.

The label on sulphur and mixtures containing same shall further show the percentage of sulphur present. In the case of ground sulphur the minimum guaranteed degree of fineness of the sulphur, according to

methods generally recognized by the sulphur industry, also shall be shown.

Registration; filing copy of label; statement; cancellation of registration for misbranding or adulteration; injunction; procedure

Sec. 6. (a) All firms, corporations, or persons now or hereafter engaged in selling agricultural insecticides or fungicides, before selling or offering for sale any agricultural insecticide or fungicide for use as an agricultural insecticide or fungicide within this state, shall annually file with the Commissioner of Agriculture an application for registration giving the information required by Section 5 of this Act; provided, however, that all firms, corporations, or persons, now, at the time of the passage of this Act, selling or offering for sale any agricultural insecticide or fungicide for use as an agricultural insecticide or fungicide within this state, shall have thirty (30) days from the effective date of this Act within which to file first applications for registration as required by this Act.

(b) A copy of the label to be attached to each package shall be filed with the Commissioner of Agriculture on or before delivery to the dealers, agents or consumers in this state; and such label shall truly set forth the data required in Section 5 of this Act; and be otherwise in accordance with the provisions of this Act. On receipt of the application for registration above described, the registration fee, and the copy of the label, and after all other requirements of this Act have been complied with, the Commissioner of Agriculture shall issue a certificate of registration for the agricultural insecticide or fungicide, which shall be in force until the succeeding September first.

(c) Any firm, corporation, or person, who has registered agricultural insecticides or fungicides for sale within the State of Texas, shall furnish upon request of the Commissioner of Agriculture, within five (5) days of receipt of such request, a statement showing the official name of the agricultural insecticide or fungicide and the names and addresses of a reasonable number, not exceeding ten persons, within the State of Texas, to whom it has been sold.

(d) Whenever it shall appear to the Commissioner of Agriculture that any firm, corporation, or person is selling or offering for sale any misbranded or adulterated agricultural insecticide or fungicide for use in this state as an agricultural insecticide or fungicide which has been registered under the provisions of this Act, it shall be the duty of the Attorney General, or any District or County Attorney of this State, upon request of the Commissioner of Agriculture, in addition to any other remedies, to institute a civil suit in the District Court of the proper county in the name and on behalf of the State of Texas, as plaintiff, and in the name of the firm, corporation, or person to whom the registration certificate was issued for such agricultural insecticide or fungicide, as defendant, to forfeit and cancel such registration, and service shall be had as in other civil cases. Any and all suits brought by the state under this section must be brought in Travis County, or in the county of the domicile or residence of the manufacturer of the agricultural insecticide or fungicide, or in the county where the agricultural insecticide or fungicide was sold or offered for sale, or in the county where the agricultural insecticide or fungicide was to be used or is used as an agricultural insecticide or fungicide.

If, upon the trial of such cases, it shall be determined that said agricultural insecticide or fungicide is misbranded or adulterated within the meaning of this Act, then the registration of such agricultural insecticide or fungicide shall be forfeited and cancelled and the sale of such mis-

branded or adulterated agricultural insecticide and fungicide shall be enjoined in accordance with the judgment of the Court.

In all proceedings begun under this section, either party may demand trial by jury of any issue of fact joined in any such case, and either party shall have the right of appeal as in other civil cases. All suits instituted under this section shall be advanced for trial and be determined as expeditiously as possible, and no postponement thereof or continuance shall be granted except for reasons deemed imperative by the Court.

The Texas Rules of Civil Procedure shall govern the procedure in all proceedings begun under this section, except that no bond for injunction shall be required of the State of Texas, and except as otherwise provided herein.

Inspection or sampling

Sec. 7. The Commissioner of Agriculture in person or by duly authorized representative shall have the power to enter into any building or place owned, controlled or operated by a registrant or dealer where, from probable cause, it reasonably appears that said building or place contains agricultural insecticides or fungicides, for the purpose of inspection or sampling, and shall have the power to take a sample for analysis, not exceeding two pounds, from any package or lot of agricultural insecticides or fungicides found within the state; and said samples shall be sealed and transmitted directly to the State Chemist at the Agricultural and Mechanical College of Texas at College Station. Upon the request of the Commissioner of Agriculture, it shall be the duty of the State Chemist to make such examination and analysis or to have the same made by duly authorized representative under his direction. All of such analyses shall be made by the methods of the Association of Official Agricultural Chemists of North America, if the necessary method has been adopted; or in the absence of such method, the State Chemist shall be authorized to select a method.

Notice of misbranding or adulteration; prosecutions; annual reports

Sec. 8. (a) If it shall appear from the examination and analysis of any of such samples that the same is misbranded or adulterated within the meaning of this Act, the State Chemist shall certify the results to the Commissioner of Agriculture, who shall cause notice thereof to be given to the manufacturer of said products, and said notice shall be accompanied by a copy of said analysis so made, together with a statement by said Commissioner as to where such samples were taken. A portion of any sample taken for examination and analysis shall be furnished by the State Chemist to the manufacturer of such product upon his request being made within thirty (30) days after receipt of such notice and statement. It shall be the duty of each prosecuting attorney of this state to whom the Commissioner of Agriculture shall report any violation of this Act to cause appropriate proceedings to be commenced and prosecuted in the proper courts of this state, without delay, for the enforcement of the penalties as in such case herein provided.

(b) The Commissioner of Agriculture and the State Chemist shall issue at least one joint report annually setting forth the analyses of agricultural insecticides and fungicides made under the provisions of this Act, the operation of this law, and such other information concerning violations of the law, or operations of this Act, or otherwise, as may be considered necessary; provided, however, that the Commissioner of Agriculture and the State Chemist shall in no event be authorized or permitted to divulge to any person any trade secrets, formulas, or practices of any person, firm or corporation subject to this Act.

Submitting samples for analysis; fee

Sec. 9. Any person not a dealer in, or agent for, the sale of any agricultural insecticides or fungicides, who may purchase any agricultural insecticides or fungicides for his own use within this state and not for sale, may submit a sample of same for analysis, to the State Chemist, whereupon it shall be the duty of said State Chemist to make an analysis of said insecticides or fungicides for ingredients, which said analysis shall be made according to a method given by the Association of Official Agricultural Chemists or the American Society for Testing Materials; or, in the absence of such method, then, in accordance with accepted methods. The said State Chemist shall be permitted to charge a fee for the said analysis not in excess of Three (\$3.00) Dollars, which said fee shall be remitted to the State Treasury to the account of the General Fund of the State of Texas.

Registration fees

Sec. 10. For the sole purpose of defraying the expenses connected with the inspection of agricultural insecticides or fungicides sold, or exposed or offered for sale, in this state, and with the making of examinations and analyses thereof, all firms, corporations, or persons engaged in the manufacture or sale of agricultural insecticides or fungicides shall, in place of a tonnage tax, pay annually to the Commissioner of Agriculture an inspection tax of Twenty-five (\$25.00) Dollars for registration of each agricultural insecticide and fungicide, provided that the total of the registration fees for any one firm shall not exceed One Hundred (\$100.00) Dollars. But in cases where the registration fees have been paid, either by the manufacturer or by the jobber, as required by this section, then in that event nothing in this section shall be construed as applying to retail dealers selling agricultural insecticides and fungicides. All such registration fees collected shall be deposited with the State Treasurer and shall be paid into the General Revenue Fund of the State of Texas.

Violations of act

Sec. 12. Every firm, corporation, or person who shall sell or offer for sale any agricultural insecticide or fungicide without having attached thereto such statements as are required by law, or who shall sell or offer for sale any adulterated or misbranded agricultural insecticide or fungicide within the meaning of this Act, or who shall violate any other provisions of this Act, shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine of not less than Fifty (\$50.00) Dollars, nor more than Five Hundred (\$500.00) Dollars for each offense.

Search warrants

Sec. 13. (a) A search warrant may issue under Title 6 of the Code of Criminal Procedure for the purpose of searching for and seizing any agricultural insecticide or fungicide sold, offered or exposed for sale within this state in violation of any provision of this Act. Search warrants may be issued by any magistrate upon the affidavit of the Commissioner of Agriculture in person or by his duly authorized representative, or of any other 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 address are unknown; the address and description of the premises; the description of the agricultural insecticide or fungicide; the grounds for belief that the described premises is a place where agricultural insecticides or fungicides have been sold, offered or exposed for sale in violation of the provisions of this Act. All such agricultural insecticides or fungicides 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 proceeding.

(b) Except as herein provided, the application, issuance, and execution of any such search warrant and all proceedings relative thereto shall conform to the provisions of Title 6 of the Code of Criminal Procedure.

(c) It is not intended by the provisions of this section that a search warrant shall be required for the Commissioner of Agriculture in person or his duly authorized representative to take samples of agricultural insecticides or fungicides as provided in Section 7 of this Act.

Condemnation and forfeiture of adulterated or misbranded products; suits

Sec. 14. (a) Any agricultural insecticide or fungicide that is adulterated or misbranded within the meaning of this Act shall be liable to be condemned, confiscated, and forfeited by a civil suit brought in the District Court of the county where said agricultural insecticide or fungicide is located, in the name of the State of Texas, as plaintiff, and in the name of the owner thereof or the name of the person, firm, or corporation selling, offering or exposing same for sale, as defendant; and service shall be had as in other civil cases. If upon a trial of said case it shall be determined that said agricultural insecticide or fungicide is misbranded or adulterated, within the meaning of this Act, then the same shall be disposed of by destruction or sale in accordance with the judgment of the court, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the General Fund of the State of Texas.

(b) District and county attorneys shall file forfeiture and condemnation suits under this law at the request of the Commissioner of Agriculture; but in the event any county or district attorney fails or refuses to do his duty, then upon the request of the Commissioner of Agriculture, it shall be the duty of the Attorney General to file such suits. In all proceedings begun under this section, either party may demand trial by jury of any issue of fact joined in any such case, and either party shall have the right of appeal as in other civil cases.

(c) All suits brought under this section shall be advanced for trial and be determined as expeditiously as possible, and no postponement thereof or continuance shall be granted except for reasons deemed imperative by the Court.

(d) The Texas Rules of Civil Procedure shall govern the procedure in all proceedings begun under this section, except that no bond for injunction shall be required of the State of Texas, and except as otherwise provided herein.

Application of section 6

Sec. 15. Section 6 of this Act shall not be construed as applying to retail dealers selling agricultural insecticides or fungicides when the manufacturer or jobber of such insecticides or fungicides has registered such products as required by this Act.

Exemptions

Sec. 16. This Act shall not apply to the sale of household insecticides, household disinfectants, and household deodorants.

Partial invalidity

Sec. 17. If any section, sub-section, 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,

sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared unconstitutional. Acts 1943, 48th Leg., p. 168, ch. 98.

Approved and effective April 2, 1943.

Section 11 of the Act of 1943, cited to the text, made an appropriation to carry out the provisions of the act until September 1, 1943. Section 18 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to prevent fraud in the sale of agricultural insecticides and fungicides by providing for the branding or labeling of such products sold under this Act; prohibiting the adulteration, misbranding or misrepresentation of agricultural insecticides and fungicides; providing for the coloring of certain agricultural insecticides and fungicides; defining certain words, terms and phrases; providing for registration with the Commissioner of Agriculture and for forfeiture and cancellation of registration by suit in the name of the State of Texas; providing for the examination and analysis of agricultural insecticides and

fungicides; providing for the administration of this Act by the Commissioner of Agriculture; describing the powers and duties of the Commissioner of Agriculture and the State Chemist; providing for registration fees and disposition thereof; appropriating funds to administer this Act; providing penalties and fines for the violation of any provision of this Act; providing for the search and seizure of any agricultural insecticides or fungicides under certain circumstances; providing for the condemnation and forfeiture of such insecticides and fungicides by legal process; exempting retail dealers from registration of products and payment of registration fees under certain conditions; exempting household insecticides, disinfectants and deodorants from provisions of Act; providing for a savings clause, and declaring an emergency. Acts 1943, 48th Leg., p. 168, ch. 98.

TITLE 8—APPORTIONMENT

Art. 199. 30, 22, 17 Judicial Districts

1.—San Augustine, Orange, Newton, Jasper and Sabine.

The First Judicial District shall be composed of the counties of San Augustine, Orange, Newton, Jasper and Sabine, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of San Augustine on the first Monday in January, and the twenty-fifth Monday after the first Monday in January.

In the County of Orange on the fourth Monday after the first Monday in January, the twenty-first Monday after the first Monday in January, and the thirty-seventh Monday after the first Monday in January.

In the County of Newton on the eighth Monday after the first Monday in January, and the thirty-third Monday after the first Monday in January.

In the County of Jasper on the twelfth Monday after the first Monday in January, and the twenty-ninth Monday after the first Monday in January, and the forty-sixth Monday after the first Monday in January.

In the County of Sabine on the sixteenth Monday after the first Monday in January, and the forty-first Monday after the first Monday in January.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein. As amended Acts 1943, 48th Leg., p. 9, ch. 10, § 1.

Approved and effective Feb. 9, 1943.

Sections 2-4 of the amendatory Act of 1943 read as follows:

"Sec. 2. The Judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

"Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect, shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed, as though issued and served

for such terms and returnable to and drawn for the same.

"Sec. 4. It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect, such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act."

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

2.—Angelina, Cherokee and Nacogdoches.

The 2nd Judicial District shall be composed of the Counties of Angelina, Cherokee and Nacogdoches; and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Cherokee on the first Monday in January, and the fifteenth Monday after the first Monday in January, and the thirty-fourth Monday after the first Monday in January.

In the County of Nacogdoches on the fifth Monday after the first Monday in January, and on the twentieth Monday after the first Monday in January, and the thirty-ninth Monday after the first Monday in January.

In the County of Angelina on the tenth Monday after the first Monday in January, and on the twenty-ninth Monday after the first Monday in

January, and on the forty-fourth Monday after the first Monday in January.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein. As amended Acts 1943, 48th Leg., p. 98, ch. 69, § 1.

Approved and effective March 18, 1943.
Sections 2-4 of Acts 1943, 48th Leg., p. 98, ch. 69, read as follows:

"Sec. 2. The Judge of said Court in his discretion, may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

"Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such

terms and returnable to and drawn for the same.

"Sec. 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect, such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws; but thereafter all courts in said District shall conform to the requirements of this Act."

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

3.—Anderson, Henderson and Houston.

The Third Judicial District of the State of Texas shall be composed of the Counties of Anderson, Henderson and Houston, and the terms of the District Court within said counties shall be held therein each year as follows:

In the County of Anderson on the first Mondays in April, July and December.

In the County of Henderson on the first Mondays in February, June and September.

In the County of Houston on the first Mondays in March, August and October.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein. As amended Acts 1943, 48th Leg., p. 31, ch. 29, § 1.

Approved and effective Feb. 23, 1943.
Sections 2-4 of the amendatory Act of 1943 read as follows:

"Sec. 2. The Judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

"Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

"Sec. 4. It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect, such court or courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided herein, but thereafter all courts in said district shall conform to the requirements of this Act."

Section 5 of the amendatory Act of 1943 repealed all inconsistent acts and parts of acts. Section 6 declared an emergency and provided that the Act should take effect from and after its passage.

5.—Bowie and Cass.

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

In Bowie County on the first Monday in January of each year and may continue in session for six (6) weeks; on the fourteenth Monday after the first Monday in January, and may continue in session for six (6) weeks; on the thirtieth Monday after the first Monday in January, and may continue in session for six (6) weeks; on the forty-second

Monday after the first Monday in January and may continue in session for six (6) weeks.

In Cass County beginning on the sixth Monday after the first Monday in January of each year, and may continue in session for eight (8) weeks; on the twentieth Monday after the first Monday in January, and may continue in session for ten (10) weeks; on the thirty-sixth Monday after the first Monday in January and may continue in session for six (6) weeks; on the forty-eighth Monday after the first Monday in January and may continue in session for four (4) 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. Said Fifth Judicial District Court shall also have concurrent jurisdiction in Bowie County with the One Hundred and Second Judicial District Court, and all causes of action of a civil or criminal nature pending in either court in said county shall, at the adjournment of each term of said court in which the same is pending, be transferred by operation of law to the other court; and said courts, and judges thereof, either in term time or vacation, may transfer any civil or criminal cause pending in their respective court to the other district court in said Bowie County by an order entered upon the Minutes of their respective court.

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 Court 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.

Upon taking effect of this Act, all suits, civil or criminal, and all other actions then pending on the docket of the Fifth Judicial District Court in Marion County, shall by operation of law be transferred to the Seventy-sixth Judicial District Court for Marion County, and said causes shall thereafter be and remain as pending on the docket of the Seventy-sixth Judicial District Court in Marion County. All process issued, and all bonds and recognizances made, and which were issued or served out of or returnable to the District Court of Marion County by and for the Fifth Judicial District, prior to the effective date of this Act, shall be valid and returnable to the next succeeding term of the District Court of Marion County for the Seventy-sixth Judicial District, as now fixed by law, as though the same had been issued and served for such term and court, returnable to and drawn from the same. As amended Acts 1943, 48th Leg., p. 420, ch. 287, § 1.

Approved May 8, 1943.

Effective July 31, 1943 at midnight as provided by section 2 of the amendatory Act of 1943.

Section 3 of the amendatory Act of 1943 repealed all conflicting laws and parts of laws.

Section 4 declared an emergency and provided that the Act should take effect from and after the effective date as declared in the Act.

6. Fannin and Lamar.

Section 1. Terms of court in and for the 6th Judicial District shall be hereafter held therein each year as follows:

In the County of Fannin on the second Monday in January of each year and may continue in session for eleven weeks;

In the County of Lamar on the eleventh Monday after the second Monday in January of each year and may continue in session for ten weeks;

In the County of Fannin on the twenty-first Monday after the second Monday in January of each year and may continue in session for eight weeks;

In the County of Lamar on the fifth Monday after the second Monday in August in each year and may continue in session six weeks;

In the County of Fannin on the eleventh Monday after the second Monday in August of each year and may continue in session six weeks;

In the County of Lamar on the seventeenth Monday after the second Monday in August of each year and may continue in session until the second Monday in January the following year. As amended Acts 1943, 48th Leg., p. 357, ch. 236, § 1.

Approved and effective May 6, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "The Judge of the 6th Judicial District shall convene a grand jury in the County of Lamar at only two terms of court in each year unless in his judgment it be necessary for a grand jury in the County of

Fannin at only two terms of court in each year unless in his judgment it be necessary for a grand jury at other terms."

Section 3 repealed all inconsistent acts and parts of acts.

Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

7.—Upshur, Wood and Smith.

(a) The Seventh Judicial District of Texas shall be composed of Upshur, Wood, and Smith Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Upshur on the first Mondays in January and June.

In the County of Wood on the first Mondays in February and July.

In the County of Smith on the first Mondays in March and August.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed proper and expedient for the dispatch of business.

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

(d) It is further provided that if any Court in any county of said district shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said district shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 293, ch. 188, § 1.

Approved and effective April 27, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

Special District Court of Smith and Wood Counties

(a) The Special District Court set up and provided for by this Act shall be composed of Smith and Wood Counties, and the terms of said District Court shall be held therein as follows:

In Smith County on the first Mondays in January, April, July and October;

In Wood County on the first Mondays in March, June, September and December.

Each term of Court in each county shall continue in session until the date fixed herein for the beginning of the next term in each county, respectively.

(b) The Judge of said Court may, in his discretion, hold as many sessions of the Court in any term in either county, for the trial of cases, as is deemed necessary and expedient for the proper dispatch of the business of the Court.

(c) All processes issued and served, bonds and recognizances made, and all Grand and Petit Juries drawn before this Act takes effect shall be valid for and returnable to the District Courts of said Counties as herein provided as if the same had been issued, served, made or taken, for the succeeding term of the Courts as provided herein.

(d) Provided that if any Court in said Counties of said District shall be in session when this Act takes effect, such Court or Courts affected thereby shall continue in session until the term thereof shall expire under present laws, but thereafter the Courts in said District shall conform to the requirements of this Act.

(e) Dockets and minute books shall be provided for the District Clerk of Wood County for the Special District Court in Wood County as herein provided, for docketing of cases filed in or transferred to said Special District and recording of the judgments, orders and decrees of said Court in Wood County; and a seal of said Court shall be provided for the Clerk of said Court in Wood County similar to the seal used for the Seventh District Court, except it shall show to be the seal of the Special District Court of Wood County, and shall be used by the Clerk for all matters required to have the seal of the Court, as provided by law; and the dockets, minute books and seal of the Special District Court of Smith County, may continue to be used in Smith County in this Court.

(f) The Special District Court of Smith and Wood Counties as herein provided for shall have, and the Judge thereof shall have, all of the jurisdiction and authority of a District Court of general jurisdiction, and a District Judge, as provided by the Constitution and laws of this State; and the Judges of said Court and of the Seventh District Court in Smith and Wood Counties may transfer cases from one of said Courts to the other in said Counties, either in termtime or vacation, and any cases so transferred may be tried and disposed of by the Court to which it is transferred.

(g) The Judge of the Special District Court of Smith County shall have the authority to approve all bills of exception, statements of fact, and all other matters to complete the disposition of any cases that may have been heard and tried in said Special District Court before this Act becomes effective.

Sec. 2. The Judge of the Special District Court of Smith County, at the time this Act becomes effective, shall continue to serve as the Judge of the District Court of Smith and Wood Counties, as hereby re-organized and provided, until his successor is elected and qualified; and

the appropriation made at this session of the Legislature to pay the salary of the Special District Judge of Smith County shall be and is hereby made available to pay the salary of the Judge of the Special District Court of Smith and Wood Counties as herein provided for.

Sec. 3. The Special District Court as hereby reorganized and provided for Smith and Wood Counties shall cease to exist on June 15, 1945, and the term of office of the Judge thereof shall expire by operation of law at said time; and upon the expiration of said Court, the District Clerks in Smith and Wood Counties, respectively, who are hereby made Clerks of the Special District herein provided for in their respective Counties, shall immediately transfer all cases then pending and undisposed of in said Special District Court in their respective Counties, to the Seventh District Court in the respective Counties, and all process, bonds and recognizances in cases then pending and undisposed of in any cases so transferred, shall be valid and effective in the Seventh District Court; and the Judge of the Special District Court, as hereby reorganized, shall have authority, after the expiration of said Court as provided herein, to approve all bills of exception, and statements of fact in any cases tried in said Special District Court, in which such approval is necessary. As amended Acts 1943, 48th Leg., p. 645, ch. 368, § 1.

Approved and effective May 22, 1943. the Act should take effect from and after
Section 2 of the amendatory Act of 1943 its passage.
declared an emergency and provided that

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

Trinity County

Sec. 9. Said Special 9th District Court of Montgomery, Polk, San Jacinto and Trinity Counties, as created by Senate Bill No. 270, of the Acts of the Regular Session of the 46th Legislature and hereby extended, shall cease to exist on the 30th day of June, 1945, at which time the term of office of the Judge of said Court shall expire by limitation of law. As amended Acts 1943, 48th Leg., p. 118, ch. 87, § 1.

Amendment to section 9 filed without the Governor's signature, March 29, 1943. Effective June 30, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect and be in force June 30, 1943.

12.—Grimes, Walker, Leon, Trinity and Madison.

Section 1. The Twelfth Judicial District shall be composed of the Counties of Grimes, Walker, Leon, Trinity, and Madison, and the terms of the District Courts are hereby designated and shall be held therein each year as follows:

In the County of Grimes on the first Mondays in January and June.

In the County of Walker on the first Mondays in February and July.

In the County of Leon on the first Mondays in March and October.

In the County of Trinity on the first Mondays in April and November.

In the County of Madison on the first Mondays in May and December.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 2. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. All process issued and returnable to a succeeding term of Court and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on

or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

Sec. 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 109, ch. 81, § 1.

Approved and effective March 25, 1943. the Act should take effect from and after
Section 2 of the amendatory Act of 1943 its passage.
declared an emergency and provided that

13. — Navarro.

On the first Mondays in January, April, July and October. The January, April and October terms shall each continue twelve (12) weeks or until all the business be disposed of, and the July term shall continue twelve (12) weeks or until the business be disposed of. Jury trials may be had at each and all of said terms of Court. There shall be organized Grand Juries at the April and October terms of said Court, and at such other terms thereof as may be determined and ordered by the Judge thereof. The County Attorney of Navarro County shall perform all the duties usually performed by a District Attorney. As amended Acts 1943, 48th Leg., p. 336, ch. 216, § 1.

Approved and effective May 3, 1943. Act should take effect from and after its
Section 2 of amendatory Act of 1943 de- passage.
clared an emergency and provided that the

15, 59.—Grayson and Collin.

Grayson County shall constitute the Fifteenth Judicial District, and with Collin County shall constitute the Fifty-ninth Judicial District. The District Courts shall be held therein as follows:

FIFTEENTH DISTRICT: On the first Monday in January and continuing until and including the last Saturday before the first Monday in April; on the first Monday in April and continuing until and including the last Saturday before the first Monday in July; on the first Monday in July and continuing until and including the last Saturday before the first Monday in October; on the first Monday in October and continuing until and including the last Saturday before the first Monday in January.

FIFTY-NINTH DISTRICT: (a) Collin County. On the third Monday in January and continuing until and including the last Saturday before the fourth Monday in April; on the fourth Monday in April and continuing until and including the last Saturday before the second Monday in September; and on the second Monday in September and continuing until and including the last Saturday before the third Monday in January.

FIFTY-NINTH DISTRICT: (b) Grayson County. On the second Monday in March and continuing until and including the last Saturday before the third Monday in June; on the third Monday in June and continuing until and including the last Saturday before the first Monday in December; and on the first Monday in December and continuing until and including the last Saturday before the second Monday in March.

The District Courts of the Fifteenth and Fifty-ninth Judicial Districts, in the County of Grayson, shall have concurrent jurisdiction with each other throughout the limits of Grayson County of all matters civil and criminal of which jurisdiction is given to the District Courts by the

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

Constitution and laws of this State, provided, that the Judge of the Fifty-ninth Judicial District may impanel the Grand Jury in Grayson County when, in the discretion of said Court, it is deemed by him proper so to do he may draw and impanel such grand jury for any terms of his Court as provided by law for other District Courts for impaneling grand juries. Either of the Judges of District Court of Grayson County, may in his discretion, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in Grayson County, 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 in said Court. The Clerk of the District Court of Grayson County, as heretofore constituted, and his successor in office shall be the Clerk of both the Fifteenth and Fifty-ninth District Courts in said Grayson County, and shall perform all the duties pertaining to the clerkship of both of said Courts. As amended Acts 1943, 48th Leg., p. 12, ch. 12, § 1.

Approved and effective Feb. 9, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "If any section, paragraph or provision of this Act be held or declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, par-

agraphs or provisions of this Act, but the same shall remain in full force and effect."

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

16.—Cooke and Denton.

(a) The 16th Judicial District of Texas shall be composed of Cooke and Denton Counties, and the terms of the District Court shall be held therein each year as follows:

In the County of Cooke on the first Mondays in January and September, and on the sixteenth Monday after the first Monday in January.

In the County of Denton on the eighth Monday after the first Mondays in January and September, and on the twenty-second Monday after the first Monday in January.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

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

(d) It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 100, ch. 71, § 1.

Approved and effective March 20, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

Official shorthand reporter, appointment and compensation, see article 2321 note.

18.—Somervell and Johnson.

(a). The 18th Judicial District of Texas shall be composed of Somervell and Johnson Counties and the terms of the District Court shall be held therein each year as follows:

In the County of Somervell on the first Mondays in January and June.

In the County of Johnson on the first Mondays in February and July.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b). The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

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

(d). It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 395, ch. 267, § 2.

Approved May 8, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 3 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

21.—Washington, Lee, Bastrop and Burleson.

Section 1. The Twenty-first Judicial District shall be composed of the Counties of Washington, Lee, Bastrop and Burleson, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Washington on the first Mondays in March and September;

In the County of Lee on the sixth Mondays after the first Mondays in March and September;

In the County of Burleson on the tenth Mondays after the first Mondays in March and September;

In the County of Bastrop on the second Monday in January, and the fifteenth Monday after the first Monday in March.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Section 2. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

Section 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

Section 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act.

Section 5. Judgments of all such District Courts shall become final on and after the expiration of ten (10) days after the date of judgment,

or on and after the day the motion or amended motion for new trial, if any be filed, is overruled, as if the term of Court had expired, when execution and all such other writs to enforce such judgment may issue. On and after the day such judgment becomes final, the judgment cannot be set aside except by bill of review for sufficient cause, filed within the time allowed by law for the filing of bills of review in other District Courts. As amended Acts 1943, 48th Leg., p. 176, ch. 101, § 1.

Approved and effective April 2, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

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

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

In the County of Austin on the first Mondays in January and June.

In the County of Hays on the first Mondays in February and September.

In the County of Caldwell on the first Mondays in March and October.

In the County of Fayette on the first Mondays in April and November.

In the County of Comal on the first Mondays in May and December.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein. As amended Acts 1943, 48th Leg., p. 274, ch. 173, § 1.

Approved and effective April 27, 1943.

Sections 2-4 of the amendatory Act of 1943 read as follows:

"§ 2. The Judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

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

"§ 4. It is further provided that if any

court in any county of said District shall be in session at the time this Act takes effect, such court shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, except the 1943 spring term of the District Court of Fayette County shall begin on the first Monday in May 1943 and continue in session until the beginning of the succeeding term therein, as provided herein; but thereafter all courts in said District shall conform to the requirements of this Act."

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

24.—DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria.

The 24th Judicial District shall be composed of the Counties of DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria, and the terms of the District Court shall be held therein each year as follows:

In the County of DeWitt on the first Mondays in January and June and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Goliad on the first Monday in February and last Monday in August and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Jackson on the fourth Monday in February and third Monday in September and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Refugio on the third Mondays in March and October and may continue in session until the Saturday immediately preceding

the Monday for convening the next regular term of such court in such County.

In the County of Calhoun on the second Mondays in April and November and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Victoria on the fourth Mondays in April and November and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County. As amended Acts 1943, 48th Leg., p. 11, ch. 11.

Approved and effective Feb. 9, 1943.

Sections 2-4 of the amendatory Act of 1943 read as follows:

"Sec. 2. Any term of court may be divided into as many sessions as the judge thereof may deem expedient for the dispatch of business.

"Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served

for such terms and returnable to and drawn for the same.

"Sec. 4. The salary of the official court reporter of this District shall be as fixed by law, and shall be paid by each County in proportion to the time court is actually held in such County, such proportion to be determined by the judge of this court and to be paid on sworn written statement of the court reporter approved by the judge of this court."

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

27.—Bell, Lampasas and Mills.

The 27th Judicial District shall be composed of the Counties of Bell, Lampasas and Mills, and the terms of the District Court shall be held therein each year as follows:

In the County of Bell on the first Mondays in January and June and may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Lampasas on the first Mondays in March and September and may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Mills on the first Mondays in May and November and may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such County. As amended Acts 1943, 48th Leg., p. 8, ch. 9, § 1.

Approved and effective Feb. 8, 1943.

Sections 2-4 of the amendatory Act of 1943 read as follows:

"Sec. 2. Any term of court may be divided into as many sessions as the judge thereof may deem expedient for the dispatch of business.

"Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein

fixed as though issued and served for such terms and returnable to and drawn for the same.

"Sec. 4. The salary of the official court reporter of this district shall be as fixed by law, and shall be paid by each County proportionately according to the population as shown by the last Federal Census."

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

29.—Hood, Palo Pinto, and Erath.

The Twenty-ninth Judicial District of Texas shall be composed of the Counties of Hood, Palo Pinto, and Erath, and the terms of the District Court shall be held therein each year as follows:

In the County of Erath: On the first Monday in January of each year; on the first Monday after the third Saturday in May of each year;

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

and on the first Monday after the fourth Saturday in August, of each year; and each of which terms of Court may continue in session to and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

In the County of Palo Pinto: On the first Monday in March of each year; on the first Monday after the third Saturday in June of each year; and on the first Monday after the fourth Saturday in October of each year; and each such terms of Court may continue in session to and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

In the County of Hood: On the first Monday after the third Saturday in April of each year; on the first Monday after the fourth Saturday in July of each year; and on the first Monday after the second Saturday in December of each year; and each such terms of Court may continue in session to and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

Sec. 2. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as deemed by him proper and expedient for the dispatch of business.

Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

Sec. 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said District shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 178, ch. 103, § 1.

Approved and effective April 2, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

30.—Wichita

The Thirtieth Judicial District shall be composed of Wichita County, Texas, and the terms of the said District Court shall be held therein each year as follows:

On the first Mondays of January and July of each year and may continue in session until the Saturday immediately preceding the Monday for convening of the next regular term of such Court in Wichita County, Texas.

Any term of Court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for, and returnable to, the next succeeding term of the District Court of Wichita County as herein fixed as though issued and served for such term and returnable to and drawn for the same. As amended Acts 1943, 48th Leg., p. 302, ch. 196, § 1.

Approved and effective April 29, 1943.

Section 3 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Acts 1943, 48th Leg., p. 29, ch. 26, § 1, which amended this subdivision, was repealed by Acts 1943, 48th Leg., p. 302, ch. 196, § 2.

31.—Roberts, Wheeler, Gray and Lipscomb.

The Thirty-first Judicial District of the State of Texas shall be composed of the Counties of Gray, Roberts, Lipscomb, and Wheeler, and the terms of the District Court shall be held therein each year as follows:

Gray County: On the first Monday in January of each year; and on the twenty-first Monday after the first Monday in January of each year; and on the fourth Monday after the fourth Monday in August of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in Gray County.

Roberts County: On the tenth Monday after the first Monday in January of each year; and on the fourth Monday in August of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in Roberts County.

Lipscomb County: On the twelfth Monday after the first Monday in January of each year; and on the second Monday after the fourth Monday in August of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in Lipscomb County.

Wheeler County: On the fourteenth Monday after the first Monday in January of each year; and on the eleventh Monday after the fourth Monday in August of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in Wheeler County.

Any term of Court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

All process issued, bonds and recognizances made and all Grand and Petit Juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. As amended Acts 1943, 48th Leg., p. 23, ch. 20, § 1.

Approved and effective Feb. 17, 1943. that the Act should take effect from and
Section 2 of the amendatory Act of after its passage.
1943 declared an emergency and provided

32.—Nolan, Scurry, Mitchell, and Borden.

Section 1. The Thirty-second Judicial District of Texas shall be composed of the Counties of Nolan, Scurry, Mitchell, and Borden, and the terms of the District Courts of said District shall be held therein each year as follows:

In the County of Nolan, on the second Monday in January, third Monday in April, and second Monday in September of each year, and may continue in session until the Saturday immediately preceding the Monday for convening of the next regular term of such Court in Nolan County.

In the County of Mitchell, on the third Mondays in February, May, and October of each year, and may continue in session until the Saturday immediately preceding the Monday for convening of the next regular term of such Court in Mitchell County.

In the County of Scurry, on the third Mondays in March, June, and November of each year, and may continue in session until the Saturday immediately preceding the Monday for convening of the next regular term of such Court in Scurry County.

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

In the County of Borden, on the second Mondays in April and October of each year, and may continue in session until the Saturday immediately preceding the Monday for convening of the next regular term of such Court in Borden County.

Any term of Court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

Sec. 2. All processes and writs issued out of, and bonds and recognizances entered into, and all grand or petit jurors drawn before this Act takes effect, shall be valid for 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 various Counties affected by this Act shall be as valid as though no change had been made in the District Courts herein in the time of the holding of the Court herein.

Sec. 3. It is further provided that this Act shall go into effect and be operative from and after its passage, providing that if any Court affected by this Act shall be in session at the time this Act takes effect, such Court shall continue in session until the term thereof shall expire under the provisions of this Act and thereafter the Court in such County shall conform to the terms of this Act. As amended Acts 1943, 48th Leg., p. 284, ch. 180, § 1.

Approved and effective April 27, 1943. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.
Section 2 of the amendatory Act of 1943 repealed all conflicting laws and parts of laws.

33.—Gillespie, Mason, Blanco, Menard, San Saba, Llano and Burnet.

The Thirty-third Judicial District shall be composed of Gillespie, Mason, Blanco, Menard, San Saba, Llano, and Burnet Counties, and the terms of the District Court shall be held therein as follows:

In Gillespie County: Beginning on the second Monday after the first Monday of February and August of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such court in Gillespie County.

In Mason County: Beginning on the fifth Monday after the first Monday in February and August of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such court in Mason County.

In Blanco County: Beginning on the seventh Monday after the first Monday in February and August of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such court in Blanco County.

In Menard County: Beginning on the ninth Monday after the first Monday in February and August of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such court in Menard County.

In San Saba County: Beginning on the eleventh Monday after the first Monday in February and August of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such court in San Saba County.

In Llano County: Beginning on the fourteenth Monday after the first Monday in February and August, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such court in Llano County.

In Burnet County. Beginning on the seventeenth Monday after the first Monday in February and August of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of such court in Burnet County.

Any term of court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

All process issued, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. As amended Acts 1943, 48th Leg., p. 46, ch. 42, § 1.

Approved and effective March 1, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

35.—McCulloch, Brown and Coleman.

Sec. 4. The terms of said District Court shall be held in said counties each year as follows:

In the County of McCulloch on the first Mondays in January, May and October.

In the County of Brown on the first Mondays in February, June and November.

In the County of Coleman on the first Mondays in April and September.

Each term of court in each of such counties may continue in session until the date herein fixed for the beginning of the next succeeding term therein. As amended Acts 1943, 48th Leg., p. 185, ch. 106, § 1.

Approved April 6, 1943.

Effective Sept. 1, 1943.

Sections 2-3a of the amendatory Act read as follows:

"Sec. 2. The Judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

"Sec. 3. All processes issued, bonds and recognizances made, and all grand and petit juries drawn for a succeeding term of court before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All processes issued, and made returnable on

or before Monday next after the expiration of twenty (20) days from the date of service thereof, or on or before the first Monday after the expiration of forty-two (42) days from the date of issuance thereof, shall be valid and unaffected by this Act.

"Sec. 3a. This Act shall take effect and be in full force and effect from and after September 1, 1943; but 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 effective as herein provided."

Section 3b of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after Sept. 1, 1943.

36.—Aransas, San Patricio, Bee, Live Oak and McMullen.

The Thirty-sixth Judicial District shall be composed of the Counties of Aransas, San Patricio, Bee, Live Oak and McMullen, and the terms of this District Court shall be held therein each year as follows:

In the County of Aransas, beginning on the second Monday in February and on the first Monday in September, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in Aransas County.

In the County of San Patricio, beginning on the fourth Monday in February and on the third Monday in September, and may continue in session until 10:00 a.m. of the Monday for convening the next regular term of such Court in San Patricio County.

In the County of Bee, beginning on the first Monday in April and on the first Monday in November, and may continue in session until 10:00 a.m. of the Monday for convening the next regular term of such Court in Bee County.

In the County of Live Oak, beginning on the first Monday in January and on the fourth Monday in May, and may continue in session until 10:00 a.m. of the Monday for convening the next regular term of such Court in Live Oak County.

In the County of McMullen beginning on the fourth Monday in January and on the third Monday in June, and may continue in session until 10:00 a.m. of the Monday for convening the next regular term of such Court in McMullen County.

The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

All process issued and returnable to a succeeding term of court and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

It is further provided that if any Court in any County of said District shall be in session and at the time this Act takes effect, such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 80, ch. 63, § 1.

Approved and effective March 11, 1943. the Act should take effect from and after
Section 2 of the amendatory Act of 1943 its passage.
declared an emergency and provided that

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

The Thirty-eighth Judicial District shall be composed of Counties of Medina, Kendall, Kerr, Bandera, Uvalde, Zavala, and Real, and the terms of the District Courts shall be held therein as follows:

In Medina County, first Monday in January and June.

In Kendall County, third Monday in January and June.

In Kerr County, first Monday in February and September.

In Bandera County, third Monday in February and September.

In Uvalde County, first Monday in March and October.

In Zavala County, third Monday in March and October.

In Real County, first Monday in April and November.

Each of said terms may continue in session until and including the Saturday next preceding the next succeeding term in and for such county respectively. As amended Acts 1943, 48th Leg., p. 35, ch. 32, § 1.

Approved Feb. 25, 1943.

Effective April 1, 1943.

Sections 2-4 of the amendatory Act of 1943, read as follows:

"Sec. 2. This Act shall take effect and be in force from and after the first day of April, 1943, and before the taking effect hereof, all terms of court shall be held in the several counties composing said Thirty-eighth Judicial District as now provided by law.

"Sec. 3. All process, all writs and

bonds, civil and criminal, issued or executed prior 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 drawn, are hereby made returnable to the terms of said courts as said terms are now here 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 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 process of any kind issued or returned, as well as all bonds and recognizances taken or entered into in any of said courts of said district prior to the taking effect of this Act, shall be as valid and as binding as if no change had been made in the time of holding said courts.

"Sec. 4. The Judge of said court in his discretion may hold as many sessions of court in any term of the court in any county of said district as is deemed by him proper and expedient for the dispatch of business."

Section 5 repealed all conflicting laws and parts of laws. Section 6 declared an emergency and provided that the Act should take effect from and after April 1, 1943.

47.—Randall, Potter and Armstrong.

Section 1. The Forty-seventh Judicial District shall be composed of the Counties of Randall, Potter and Armstrong, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Randall, on the first Monday in January; on the sixteenth Monday after the first Monday in January; and on the eighth Monday after the first Monday in August.

In the County of Potter, on the fourth Monday in January; on the fifteenth Monday after the fourth Monday in January; on the first Monday in August; and on the fourteenth Monday after the first Monday in August.

In the County of Armstrong, on the tenth Monday after the fourth Monday in January; and on the eleventh Monday after the first Monday in August.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 2. The Judge of said Court may, in his discretion, hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. All processes issued and made returnable to a regular term of any of said Courts as now fixed by law, all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect, shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

Sec. 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act.

Sec. 5. All laws and parts of laws in conflict herewith are hereby in all things repealed. As amended Acts 1943, 48th Leg., p. 331, ch. 212 § 1.

Approved and effective May 3, 1943.
Section 2 of amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

Potter county, see, also, 108th Judicial District.

49.—Dimmit, Zapata, Jim Hogg and Webb.

The Forty-ninth Judicial District shall be composed of the Counties of Dimmit, Zapata, Jim Hogg, and Webb, and the terms of the District Court are hereby designated therein each year as follows:

In the County of Dimmit on the first Mondays in February and September and on the second Monday in May.

In the County of Zapata on the fourth Mondays in February, May, and September.

In the County of Jim Hogg on the first Mondays in March, June and October.

In the County of Webb on the third Mondays in March, June, and October.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

The Judge of said Court, in his discretion, may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

All process issued and returnable to a succeeding term of court and all bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed, as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said District shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 37, ch. 34, § 1.

Approved and effective Feb. 25, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

50.—Baylor, Knox, King and Cottle.

(a) The 50th Judicial District of Texas, shall be composed of Baylor, Knox, King and Cottle Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Baylor on the first Monday in January and September.

In the County of Knox on the first Monday in February and October.

In the County of King on the first Monday in March and November.

In the County of Cottle on the first Monday in April and December.

Each term of said Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion, may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

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

(d) It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect, such Court or Courts affected thereby, shall continue in session until the term thereof shall expire under the provisions of existing laws, provided further that the District Court shall convene in the County of Baylor on May 10th, 1943, and continue in session until the next succeeding term as herein provided, and further provided that the District Court shall convene in Knox County, on the first Monday in June, 1943, and shall continue in session until the next succeeding term under the provisions of this Act.

Thereafter all Courts in said District shall conform to the general provisions of this Act. As amended Acts 1943, 48th Leg., p. 117, ch. 86, § 1; Acts 1943, 48th Leg., p. 390, ch. 263, § 1.

Approved and effective May 7, 1943.

Section 2 of the amendatory Acts of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

51. — Tom Green, Irion, Schleicher, Coke and Sterling.

Section 1. The following Counties shall hereafter constitute the Fifty-first (51) Judicial District of the State of Texas, to-wit: Tom Green, Irion, Schleicher, Coke and Sterling.

Sec. 2.

(a) The Fifty-first Judicial District of Texas shall be composed of Tom Green, Irion, Schleicher, Coke, and Sterling Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Tom Green on the first Mondays in January and June.

Each term of court in the said county may continue until the date herein fixed for the beginning of the next succeeding term therein.

Irion County: A term to begin on the tenth Monday after the first Monday in January of each year and may continue in session two weeks.

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

Coke County: A term to begin on the fifteenth Monday after the first Monday in January of each year and may continue in session two weeks.

Sterling County: A term to begin on the seventeenth Monday after the first Monday in January of each year and may continue in session two weeks.

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

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

Coke County: A term to begin on the fifth Monday after the first Monday in September of each year and may continue in session two weeks.

Sterling County: A term to begin on the seventh Monday after the first Monday in September of each year and may continue in session two weeks.

(b) The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

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

(d) It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 478, ch. 319, § 1.

Approved and effective May 13, 1943.

Section 3 of amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

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

52.—Coryell, Hamilton, Comanche and Bosque.

(a). The 52nd Judicial District of Texas shall be composed of Coryell, Hamilton, Comanche and Bosque Counties and the terms of the District Court shall be held therein each year as follows:

In the County of Coryell on the first Mondays in January and June.

In the County of Hamilton on the first Mondays in February and July.

In the County of Comanche on the first Mondays in March and October.

In the County of Bosque on the first Mondays in April and November.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b). The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

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

(d). It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 395, ch. 267, § 1.

Approved May 8, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 3 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

59.—See 15th District.

64.—Hale, Lamb, Swisher, Castro and Bailey.

The 64th Judicial District shall be composed of the Counties of Hale, Lamb, Swisher, Castro and Bailey, and the terms of the District Courts of each of said Counties shall be hereafter held herein each year as follows:

In the County of Hale beginning on the first Monday in January and on the twentieth Monday after the first Monday in January and on the twelfth Monday after the first Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Hale County.

In the County of Lamb beginning on the fifth Monday after the first Monday in January and on the first Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Lamb County.

In the County of Swisher beginning on the tenth Monday after the first Monday in January and on the fifth Monday after the first Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Swisher County.

In the County of Castro beginning on the fourteenth Monday after the first Monday in January and on the ninth Monday after the first Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Castro County.

In the County of Bailey beginning on the seventeenth Monday after the first Monday in January and on the seventeenth Monday after the

first Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Bailey County.

Any term of Court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

All processes issued or served, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. As amended Acts 1943, 48th Leg., p. 51, ch. 47, § 1.

Approved and effective March 4, 1943. the Act should take effect from and after
Section 2 of the amendatory Act of 1943 its passage.
declared an emergency and provided that

69.—Parmer, Deaf Smith, Oldham, Moore, Hartley, Sherman and Dallam.

The 69th Judicial District shall be composed of the Counties of Parmer, Deaf Smith, Oldham, Moore, Hartley, Sherman and Dallam, and the terms of the district court are hereby designated and shall be held therein each year as follows:

In the County of Parmer on the second Monday in January and July.

In the County of Deaf Smith on the third Monday after the second Monday in January and July.

In the County of Oldham on the eighth Monday after the second Monday in January and July.

In the County of Moore on the tenth Monday after the second Monday in January and July.

In the County of Hartley on the twelfth Monday after the second Monday in January and July.

In the County of Sherman on the fourteenth Monday after the second Monday in January and July.

In the County of Dallam on the sixteenth Monday after the second Monday in January and July.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein. As amended Acts 1943, 48th Leg., p. 101, ch. 72, § 1.

Approved and effective March 20, 1943.

Sections 2-4 of Acts 1943, 48th Leg., p. 101, ch. 72, read as follows:

"Sec. 2. The Judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

"Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed, as

though issued and served for such terms and returnable to and drawn for the same.

"Sec. 4. It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all courts in said district shall conform to the requirements of this Act."

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

70.—Martin, Howard, Midland, Ector and Glasscock.

Section 1. The Seventieth Judicial District of Texas shall be composed of the Counties of Martin, Howard, Midland, Ector, and Glasscock, and the terms of the district court are hereby designated and shall be held therein each year as follows:

In the County of Martin on the first Monday in January of each year and on the twenty-sixth Monday after the first Monday in January;

and each such term of court may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such county.

In the County of Howard on the second Monday after the first Monday in January of each year and on the fourth Monday after the first Monday in January of each year; on the first Monday in September of each year; and on the twelfth Monday after the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such county.

In the County of Midland on the sixth Monday after the first Monday in January of each year; on the nineteenth Monday after the first Monday in January of each year; on the fourteenth Monday after the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such county.

In the County of Ector on the tenth Monday after the first Monday in January of each year; on the twenty-third Monday after the first Monday in January of each year and on the eighth Monday after the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for the convening the next regular term of such court in such county.

In the County of Glasscock on the twenty-eighth Monday after the first Monday in January of each year; and on the sixteenth Monday after the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for the convening the next regular term of such court in such county. As amended Acts 1943, 48th Leg., p. 44, ch. 41, § 1.

Sec. 2. The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the district courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

Sec. 4. It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 44, ch. 41, § 1.

Approved and effective March 1, 1943. the Act should take effect from and after
Section 2 of the amendatory Act of 1943 its passage.
declared an emergency and provided that

71.—Harrison and Gregg.

Section 1. The Seventy-first Judicial District shall be composed of the Counties of Harrison and Gregg, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

Harrison County: On the first Monday in January and continue until the second Monday in March; on the second Monday in March and continue until the fourth Monday in June; on the fourth Monday in June and continue until the first Monday in September; on the first Monday

in September and continue until the first Monday in November; on the first Monday in November and continue until the first Monday in January.

Gregg County: On the second Monday in February and continue to the first Monday in June; on the first Monday in June and continue until the first Monday in October; on the first Monday in October and continue until the second Monday in February.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 2. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in either county as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of each county as herein fixed, as though issued and served for such terms and returnable to and drawn for the same.

Sec. 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect, such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 380, ch. 254, § 1.

Approved May 6, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

72.—Crosby, Lubbock, Hockley and Cochran.

The terms of the District Court of the 72nd Judicial District of this State composed of the counties of Crosby, Lubbock, Hockley, and Cochran, shall be held as follows:

In the County of Lubbock: On the second Monday in February and the second Monday in August of each year, and may continue in session until and including Saturday immediately preceding the Monday for convening the next regular term of said Court in Lubbock County.

In the County of Hockley: On the second Monday in March and the second Monday in September of each year, and may continue in session until and including Saturday immediately preceding the Monday for convening the next regular term of said Court in Hockley County.

In the County of Cochran: On the second Monday in April and the second Monday in October of each year, and may continue in session until and including Saturday immediately preceding the Monday for convening the next regular term of said Court in Cochran County.

In the County of Crosby: On the second Monday in May and the second Monday in November of each year, and may continue in session until and including Saturday immediately preceding the Monday for convening the next regular term of said court in Crosby County. Acts 1943, 48th Leg., p. 3, ch. 4, § 1.

Approved and effective Jan. 19, 1943.

Section 2 of the amendatory Act of 1943 read as follows:

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

"If a section, paragraph or provision of this Act be held or declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs and provisions of this Act, but the same shall remain in full force and effect. This Act shall not prevent the holding and closing under present laws of any term of court that may be in session when this Act takes effect."

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

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 length of the terms of the District Court and the times of holding the terms of District Court in the Counties composing the 72nd Judicial District of Texas, validating and continuing all processes issued or served before this Act takes effect, including recognizances and

bonds, and making them returnable to the terms of court in said counties and district as herein fixed, to validate the summoning of grand and petit juries under the present law so as to render them available in said counties under this Act, providing for the holding and closing of any term of court in session at the time this Act takes effect, and declaring an emergency. Acts 1943, 48th Leg., p. 3, ch. 4.

78.—Wichita.

Wichita county, see, also, 30th Judicial District, ante, and 89th Judicial District, post.

81.—Karnes, Frio, LaSalle, Atascosa and Wilson.

The Eighty-first Judicial District shall be composed of the Counties of Karnes, Frio, LaSalle, Atascosa, and Wilson, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of LaSalle on the first Monday in March, and the first Monday in September.

In the County of Atascosa on the third Monday in March, and the third Monday in September.

In the County of Wilson on the second Monday in April, and the second Monday in October.

In the County of Karnes on the first Monday in May, and the first Monday in November.

In the County of Frio on the fourth Monday in May, and the fourth Monday in November.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

The Judge of said Court in his discretion may hold as many sessions of Court in any term of Court in any County as is deemed by him proper and expedient for the dispatch of business.

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

It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect, such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said District shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 22, ch. 19, § 1.

Approved and effective Feb. 16, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

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

The 84th Judicial District shall be composed of the Counties of Carson, Hutchinson, Hansford, Ochiltree and Hemphill, and the terms of the District Courts of each of said Counties shall be hereafter held therein in each year, as follows:

In the County of Carson beginning on the first Monday in January and on the last Monday in August, and may continue in session until the date herein fixed for the beginning of the next succeeding term therein.

In the County of Hutchinson beginning on the fourth Monday after the first Monday in January and on the twenty-second Monday after the first Monday in January and on the fourth Monday after the last Monday in August, and may continue in session until the date herein fixed for the beginning of the next succeeding term therein.

In the County of Hansford beginning on the thirteenth Monday after the first Monday in January and on the ninth Monday after the last Monday in August and may continue in session until the date herein fixed for the beginning of the next succeeding term therein.

In the County of Ochiltree beginning on the fifteenth Monday after the first Monday in January and on the eleventh Monday after the last Monday in August and may continue in session until the date herein fixed for the beginning of the next succeeding term therein.

In the County of Hemphill beginning on the eighteenth Monday after the first Monday in January and on the fourteenth Monday after the last Monday in August, and may continue in session until the date herein fixed for the beginning of the next succeeding term therein.

Any term of Court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

All processes issued or served, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the Several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

It is further provided that if any court in any county of said District shall be in session at the time this Act takes effect, such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said District shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 102, ch. 73, § 1.

Approved and effective March 20, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

85.—Robertson and Brazos.

The 85th Judicial District shall be composed of the Counties of Robertson and Brazos, in the State of Texas, and the terms of the District Court shall be held in said Counties each year as follows:

In the County of Robertson on the first Mondays in January and July and may continue in session until midnight on Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Brazos on the first Mondays in April and October and may continue in session until midnight on Saturday immediately preceding the Monday for convening the next regular term of such court in such County. As amended Acts 1943, 48th Leg., p. 39, ch. 36, § 1.

Approved March 1, 1943.

Effective July 1, 1943.

Sections 2-4 of the amendatory Act of 1943 read as follows:

"Sec. 2. Any term of court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

"Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the Dis-

trict Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

"Sec. 4. The salary of the official court reporter of this District shall be as fixed by law, and shall be paid by each County proportionately according to the population as shown by the last Federal Census."

Section 5 declared an emergency and provided that the Act should take effect from and after July 1, 1943.

86.—Kaufman, Van Zandt and Rockwall.

The Eighty-sixth Judicial District of Texas shall be composed of the Counties of Kaufman, Van Zandt and Rockwall, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Van Zandt on the first Mondays in January and June.

In the County of Kaufman on the first Mondays in February and July.

In the County of Rockwall on the first Mondays in April and October.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein. As amended Acts 1943, 48th Leg., p. 59, ch. 53, § 1.

Sec. 2. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. All process issued and returnable to a succeeding term of Court and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

Sec. 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 59, ch. 53, § 1.

Approved and effective March 8, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

89.—See 30th District.

97.—Archer, Clay and Montague.

Section 1. The Counties of Archer, Clay and Montague shall hereafter constitute and be the Ninety-seventh Judicial District of the State of Texas, and the terms of the District Courts shall be held in said District as follows:

In Archer County on the first Monday in January and may continue four (4) weeks; on the 13th Monday after the first Monday in January and may continue four (4) weeks; on the 25th Monday after the first Monday in January and may continue four (4) weeks; on the 37th Monday after the 1st Monday in January and may continue four (4) weeks.

In Clay County on the 5th Monday after the 1st Monday in January and may continue four (4) weeks; on the 17th Monday after the 1st Monday in January and may continue four (4) weeks; on the 29th Monday after the 1st Monday in January and may continue four (4) weeks; on the 41st Monday after the 1st Monday in January and may continue four (4) weeks.

In Montague County on the 9th Monday after the 1st Monday in January and may continue four (4) weeks; on the 21st Monday after the 1st

Monday in January and may continue four (4) weeks; on the 33rd Monday after the 1st Monday in January and may continue four (4) weeks; on the 45th Monday after the 1st Monday in January and may continue four (4) weeks.

Sec. 2. The County Attorneys of the respective Counties embraced within the Ninety-seventh Judicial District shall do and perform the duties of the County Attorneys and District Attorneys in their respective Counties, and shall receive such fees for their services as are now or may hereafter be provided by law. Acts 1943, 48th Leg., p. 454, ch. 302.

Approved and effective May 10, 1943.

Sections 3 and 4 of the Act of 1943 read as follows:

"Sec. 3. That all process and writs heretofore issued out of the District Courts of said respective Counties constituting the District herein mentioned and returnable to terms of Court in said Counties according to existing law 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 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 process heretofore returned as well as all bonds and recognizances heretofore taken in District Courts of said respective Counties shall be as valid as though no change had been made in the said District and 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. 4. All process issued, bonds and recognizances made and all Grand and Petit juries 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 as though issued and served for such terms and returnable to and drawn for the same."

Section 5 repealed 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.

100.—Hall, Donley, Collingsworth and Childress.

The 100th Judicial District shall be composed of the Counties of Hall, Donley, Collingsworth, and Childress, and the terms of the District Court shall be held therein each year as follows:

In the County of Hall on the first Monday in February and September, and each term of said court shall continue in session until the time for the opening of the next succeeding term.

In the County of Donley on the first Monday in March and October, and each term of said court shall continue in session until the time for the opening of the next succeeding term.

In the County of Collingsworth on the first Monday in April and November, and each term of said court shall continue in session until the time for the opening of the next succeeding term.

In the County of Childress on the first Monday in May and December, and each term of said court shall continue in session until the time for the opening of the next succeeding term.

Any term of court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. As amended Acts 1943, 48th Leg., p. 30, ch. 28, § 1.

Approved and effective Feb. 23, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

103.—Cameron and Willacy.

(a) The One Hundred and Third Judicial District of Texas shall be composed of Willacy and Cameron Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Willacy on the first Mondays in January and June.

In the County of Cameron on the first Mondays in February and July.

"Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(c) All processes issued, bonds and recognizances made and all Grand and Petit Juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the Counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

(d) It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said District shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 296, ch. 191, § 1.

Approved and effective April 27, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

108.—Potter.

Sec. 1. The One Hundred and Eighth Judicial District shall be composed of the County of Potter, and the terms of said Court in said County shall be held as follows:

On the first Mondays in January, May and September of each year.

Each term of said Court may continue until the date herein fixed for the beginning of the next succeeding term thereof.

Sec. 2. The Judge of said Court may, in his discretion, hold as many sessions of said Court as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. All processes issued and made returnable to a regular term of said Court as now fixed by law and all petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of said Court as herein fixed as though issued and served for such term and returnable to and drawn for the same.

Sec. 4. It is further provided that if said Court shall be in session at the time this Act takes effect, it shall continue in session until the time for the beginning of the next succeeding term as provided for herein, but thereafter it shall conform to the requirements of this Act.

Sec. 5. All laws and parts of laws in conflict herewith are hereby in all things repealed. As amended Acts 1943, 48th Leg., p. 330, ch. 211, § 1.

Approved and effective May 3, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

109.—Reeves, Ward, Winkler, Crane, Andrews and Loving.

The One Hundred and Ninth Judicial District of Texas shall be composed of the Counties of Reeves, Ward, Winkler, Crane, Andrews, and

Loving, and the terms of district court shall be held therein each year as follows:

In the County of Reeves on the first Monday in January of each year; on the fifteenth Monday after the first Monday in January of each year; and on the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such county.

In the County of Ward on the fourth Monday after the first Monday in January of each year; on the nineteenth Monday after the first Monday in January of each year; and on the fourth Monday after the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such county.

In the County of Winkler on the eighth Monday after the first Monday in January of each year; on the twenty-third Monday after the first Monday in January of each year; and on the eighth Monday after the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such county.

In the County of Crane on the eleventh Monday after the first Monday in January of each year; on the twenty-sixth Monday after the first Monday in January of each year; and on the eleventh Monday after the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such county.

In the County of Andrews on the thirteenth Monday after the first Monday in January of each year; on the twenty-eighth Monday after the first Monday in January of each year; and on the thirteenth Monday after the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such county.

In the County of Loving on the fourteenth Monday after the first Monday in January of each year; on the thirtieth Monday after the first Monday in January of each year; and on the fourteenth Monday after the first Monday in September of each year; and each such term of court may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such county. As amended Acts 1943, 48th Leg., p. 43, ch. 40, § 1.

Approved and effective March 1, 1943.

Sections 2-4 of the amendatory Act of 1943 read as follows:

"Sec. 2. The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

"Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the district courts of the several counties as herein fixed as though issued and

served for such terms and returnable to and drawn for the same.

"Sec. 4. It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act."

Section 5 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

110. Briscoe, Floyd, Motley and Dickens.

(a) The One Hundred and Tenth Judicial District of Texas shall be composed of Briscoe, Floyd, Motley and Dickens Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Briscoe on the first Mondays in January and June.

In the County of Floyd on the first Mondays in February and July.

In the County of Motley on the first Mondays in March and August.

In the County of Dickens on the first Mondays in April and November.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed proper and expedient for the dispatch of business.

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

(d) It is further provided that if any Court in any county of said district shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said district shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 121, ch. 91, § 1.

Approved and effective March 29, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

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

(a) The One Hundred and Nineteenth Judicial District of Texas shall be composed of Coleman, Concho, Runnels, and Tom Green Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Coleman on the first Mondays in January and June.

In the County of Concho on the first Mondays in February and July.

In the County of Runnels on the first Mondays in March and October.

In the County of Tom Green on the first Mondays in April and November.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

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

(d) It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act. As amended Acts 1943, 48th Leg., p. 478, ch. 319, § 2.

Approved and effective May 13, 1943.

Tom Green County, see, also, 51st Judicial District, ante.

Art. 200a. Administrative judicial districts

Assignment of judges; vacancy in office

Sec. 5. Judges may be assigned in the manner herein provided for the holding of District Court when the regular Judge thereof is absent or is from any cause disabled or disqualified from presiding, and in instances where the regular District Judge is present or himself trying cases where authorized or permitted by the Constitution and laws of the State; and Judges may also be assigned in the manner herein provided for the holding of a District Court, when by reason of the death, resignation, or from any cause whatsoever, the office of District Judge of the District is or has become vacant. As amended Acts 1943, 48th Leg., p. 25, ch. 22, § 1.

Approved and effective Feb. 17, 1943.

Section 2 of the amendatory Act of 1943 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

Annual fee; certificate of renewal; failure to obtain renewal; notice of revocation; architects in military or naval service

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); and provided that a registered architect who has entered service in the United States Army, Navy, Marine Corps, or Coast Guard subsequent to October 1, 1940, and who was at the time of his entry into said service or is now in good standing as a registered architect, shall have his name continued on the list of registered architects and shall be exempt from the payment of any further license fee during his service, as aforesaid, and until honorably discharged, and when honorably discharged from the service he shall be exempt from payment of such fee for the then current fiscal year. As amended Acts 1943, 48th Leg., p. 254, ch. 155, § 1.

Approved and effective April 20, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

Art. 249b. Certificate of registration; persons entitled to receive without examination; fee; affidavit

Acts 1943, 48th Leg., p. 406, ch. 274, § 1, effective May 8, 1943, read: "That any person of good moral character who, on May 22, 1937, was practicing architecture in the State of Texas as his or her principal vocation and had been so engaged in

the practice of architecture for a period of at least six (6) months prior to May 22, 1937, and who shall present to the Board of Architectural Examiners of this State, an affidavit to that effect, shall be entitled to receive from said Board, without ex-

amination, a certificate authorizing him or her to practice architecture in the State of Texas without examination, upon payment to the Secretary-Treasurer of the Board a fee of Twenty-five (\$25.00) Dollars; and the Secretary-Treasurer of the Board shall, thereupon, 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 on May 22, 1937, and for six (6) months prior thereto. Such practicing architect shall be required to file his or her application for registration under this Act within thirty (30) days from the date upon which this Act goes into effect."

TITLE 11—ARCHIVES

Art. 256. 88, 68, 63 Historical archives

All books, pictures, papers, maps, documents, manuscripts, memoranda and data which relate to the history of Texas as a province, colony, Republic or State, which have been or may be delivered to the State Librarian by the Secretary of State, Comptroller, Land Commissioner or by any head of any department, or by any person or officer, in pursuance of law, shall be deemed books and papers of the State Library and shall constitute a part of the archives of said State Library; and copies therefrom shall be made and certified by the State Librarian, or by the person serving as Archivist of the Texas State Library, upon application of any person interested, which certificate shall have the same force and effect as if made by the officer originally in custody of them. As amended Acts 1943, 48th Leg., p. 267, ch. 165, § 1.

Approved and effective April 26, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

TITLE 14—ATTORNEYS AT LAW

Art.

307A. Licenses to graduates entering military service [New].

Art. 307A. Licenses to graduates entering military service

Law licenses shall be granted, without requirements of passage of the State Bar Examinations, to all graduates of the law schools of the University of Texas, Baylor University, Southern Methodist University and of all law schools which are members of the Association of American Law Schools at the date of passage of this Act to all citizens of Texas who have entered, or may enter the military service of the United States, provided such military service shall have been commenced prior to the date set for the second State Bar Examinations next following the date of their graduation from said law schools; and provided further that such applicants must have been residents of Texas for at least one (1) year prior to graduation, and must meet the character requirements prescribed in the Rules of the Supreme Court of Texas.

Application for such licenses shall be made within one (1) year after the date of honorable discharge from the military service of the United States.

Military service shall include service in all branches of the Army, Navy and other military forces of the United States, including auxiliary services, during the present war, or during national emergency as de-

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

clared by Congress or the President of the United States. Added Acts 1943, 48th Leg., p. 397, ch. 268, § 1.

Approved May 8, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the Act of 1943 read as follows: "If any portion or clause of this Act shall be held invalid or unconstitutional the remaining portion shall be held constitutional and valid."

Section 3 repealed all conflicting laws and parts of laws.

Section 4 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

1. DISTRICT ATTORNEYS

Article 322. [339] [276] [241] Districts may elect

The following Judicial Districts in this State shall each respectively elect a District Attorney, viz: first, second, third, fifth, seventh, eighth, ninth, twelfth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-seventh, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, forty-second, forty-sixth, forty-seventh, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, sixty-third, sixty-fourth, sixty-ninth, seventieth, seventy-second, seventy-fifth, seventy-sixth, seventy-ninth, eighty-first, eighty-third, ninetieth, hundredth, and hundred and sixth. There shall also be elected a Criminal District Attorney for Harris County, a Criminal District Attorney for Dallas County, a Criminal District Attorney for Tarrant County, and one Criminal District Attorney for the Counties of Nueces, Kleberg, Kenedy, Willacy and Cameron. As amended Acts 1943, 48th Leg., p. 457, ch. 306, § 1.

Approved and effective May 10, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "This Act shall not alter, amend, or change any other law, general or special of the State of Texas, affecting District Attorneys, and it is hereby declared the intention of the Legislature that the sole intent and purpose of

this Act is to omit the Fourth Judicial District from the list of Judicial Districts in which District Attorneys shall be elected."

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

Art. 328. Vacancy in office

Conduct of business by assistants or deputies when physical vacancy occurs in public office, see article 6252—1.

TITLE 16—BANKS AND BANKING

TEXAS BANKING CODE OF 1943 [NEW]

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343	342—201	369	342—803	386	342—406
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345	342—201	370	Omitted	387	342—404
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351	342—203	375b	342—706	391	342—303
351	342—204	375c	342—812	392	342—301
352	342—206	375d	342—113	392	342—504
353	342—204	376	342—301	392	342—505
354	342—203	376	342—902	393	342—402
355	342—211	377	342—304	393	342—406
356	342—210	377	342—401	394	342—406
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358	342—208	379	342—305	396	342—604
359	342—210	380	342—305	397	Omitted
360	Omitted	381	342—305	398	Omitted
361	342—208	381	342—306	399	Omitted
362	342—208	381a	342—311	400	Omitted
363	342—208	381a	342—312	401	Omitted
364	342—803	382	342—307	402	Omitted
365	342—803	383	Omitted	403	Omitted
366	342—803	384	342—305	404	Omitted
367	342—803	385	342—407	405	Omitted
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BANKS AND BANKING

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Repealed Articles Civ.St.	New Articles Civ.St.	Repealed Articles Civ.St.	New Articles Civ.St.	Repealed Articles Civ.St.	New Articles Civ.St.
406	Omitted	492	342-901	539	342-802
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408	Omitted	494	342-209	540a	342-608
409	342-710	495	342-209	541	342-902
410	342-710	496	342-209	541a	342-902
411	342-906	497	342-209	541b	342-902
412-429	Omitted	498	342-113	541c	Omitted
430	342-312	499	342-409	541d	342-710
430	342-905	499	342-411	541e	342-906
431	342-905	500	Repealed	542	Omitted
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440-449	Repealed	508	342-410	548a	342-311
450	342-803	509	342-601	548a	342-312
451	342-804	510	342-503		
452	342-807	511	342-301	Repealed	New
453	342-814	512	342-501	Articles	Articles
454	342-814	512a	342-501	Pen.Code	Civ.St.
455	Repealed	513	Omitted	536-543	Omitted
456	342-802	514	342-502	544	342-413
456	342-808	515	342-602	545	342-414
457	342-814	516	Omitted	546	342-509
458	Omitted	517	342-603	546a	342-510
459	342-810	517a	342-603	546b	342-510
459	342-811	518	342-603	547	342-412
460	342-806	519	342-603	547a	Omitted
461	342-816	520	342-904	547b	342-411
462	342-813	521	342-606	547b	342-412
463	342-814	522	342-606	547c	342-415
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464	Repealed	523	342-506	548a	342-211
465	342-815	524	342-506	549	342-416
466	Repealed	525	342-511	550	Omitted
467	342-815	526	342-509	551	342-207
468	342-815	527	342-527	552	342-209
469	342-815	528	342-411	552	342-211
470	Repealed	529	342-211	553	342-417
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472	342-815	531	342-801	555	342-507
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474	342-815	533	Omitted	558	342-902
475-489	Repealed	534	Omitted	559	342-902
489a	Repealed	535	342-401	559a	342-414
490	342-902	536	342-410	560a	Omitted
491	342-902	537	Omitted	567a	342-907
		538	342-903		

CHAPTER I—SCOPE OF ACT, DEFINITIONS, FINANCE COMMISSION AND STATE BANKING BOARD

Art.		Art.	
342—101.	Scope of Act—Short Title.	342—111.	Finance Commission—Sections—Meetings — Quorum — Voting —Minutes.
342—102.	Definitions.	342—112.	Finance Commission—Report of Commissioner—Report of Commission—Limitation of Expenses of Banking Department.
342—103.	Finance Commission—Banking Section and Building and Loan Section — Creation — General Powers.	342—113.	Banking Section—Rules and Regulations—Loans and Investments — Insurance — Preservation of Books and Records.
342—104.	Finance Commission—Sections—Qualifications of Members.	342—114.	Building and Loan Section—Rules and Regulations—Loans and Investments — Advisory Powers.
342—105.	Finance Commission—Residence of Members.	342—115.	State Banking Board—Members —Powers.
342—106.	Finance Commission—Members—Appointment—Term.		
342—107.	Finance Commission—Vacancies.		
342—108.	Finance Commission—Confirmation of Appointments.		
342—109.	Finance Commission—Expenses and Compensation of Members.		
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Art. 342—101. Scope of Act—Short Title

This code provides a complete system of laws governing the organization, operation, supervision and liquidation of state banks, and to the extent indicated by the context, governing private banks and national banks domiciled in this State; as authorized by Article 16, Section 16 of the Constitution of the State of Texas, and as provided by Article 3, Section 43 of the Constitution of the State of Texas. This Act, and all amendments thereto, may be cited as "The Texas Banking Code of 1943." Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 1.

Approved March 31, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Article 11 of subchapter IX of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 342—102. Definitions

As used in this code the following terms, unless otherwise clearly indicated by the context, have the meanings specified below:

"Code"—The Texas Banking Code of 1943.

"Banking Department"—The Banking Department of Texas.

"Finance Commission" or "Commission"—The Finance Commission of Texas.

"Banking Section"—The Banking Section of The Finance Commission of Texas.

"Building and Loan Section"—The Building and Loan Section of The Finance Commission of Texas.

"Commissioner"—The Banking Commissioner of Texas.

"Deputy Commissioner"—The Deputy Banking Commissioner of Texas.

"Departmental Examiner"—The Departmental Bank Examiner of The Banking Department of Texas.

"Examiner"—Bank Examiner of The Banking Department of Texas.

"Assistant Examiner"—Assistant Bank Examiner of The Banking Department of Texas.

"State Bank"—Any corporation hereafter organized under this Code, and any corporation heretofore organized under the laws of the State of Texas, and which was, prior to the effective date of this Act,¹ subject to the provisions of Title 16 of the Revised Civil Statutes of Texas, 1925, as

amended,² including banks, trust companies, bank and trust companies, savings banks and corporations subject to the provisions of Chapter 9, Title 16 of the Revised Civil Statutes of Texas, 1925, as amended.³

"Director, officer or employee"—Director, officer or employee of a state bank.

"Board"—Board of directors of a state bank.

"National Bank"—Any banking corporation organized under the provisions of Title 12, United States Code, Section 21 (U.S.Rev. Statutes, Section 5133) and the amendments thereto.⁴

"State Building and Loan Association" or "State Association"—Any building and loan or savings and loan association heretofore or hereafter organized under the laws of this State.

"Federal Savings and Loan Association"—Any savings and loan association heretofore or hereafter organized under the laws of the United States of America.

"District Court"—A district court of the county in which the bank involved is domiciled.

"City"—City, village, town, or similar community.

"Capital"—The common capital stock.

"Chapters and Articles"—Chapters and articles of this Code. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 2.

¹ Effective 90 days after May 11, 1943, date of adjournment.

² Articles 342-548.

³ Articles 542-548.

⁴ 12 U.S.C.A. § 21.

Art. 342—103. Finance Commission—Banking Section and Building and Loan Section—Creation—General Powers

There is hereby established and created The Finance Commission of Texas which shall consist of nine (9) members, and be divided into two (2) sections, namely: The Banking Section, consisting of six (6) members, and The Building and Loan Section, consisting of three (3) members. The Finance Commission and each section thereof shall serve as an advisory board to the Commissioner as to general policies and shall have such other duties, powers and authority as may be conferred upon them by law. The Banking Section and the Building and Loan Section shall make a thorough and intensive study of the Texas banking and building and loan statutes, respectively, with a view to so strengthening said statutes as to attain and maintain the maximum degree of protection to depositors, stockholders and shareholders, and shall report every two (2) years to the Legislature by filing with the Clerks of the Senate and the House of Representatives the results of its study, together with its recommendations. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 3.

Art. 342—104. Finance Commission—Sections—Qualifications of Members

Four (4) members of the Banking Section shall be active bankers who shall have had not less than five (5) years' executive experience next preceding their appointment in a state bank in a capacity not lower than cashier. Two (2) members of the Building and Loan Section shall be practical building and loan executives who shall have had not less than five (5) years' full time employment experience in a State Building and Loan or Federal Savings and Loan Association in a capacity not lower than secretary next preceding their appointment. Provided that experience as Commissioner, Deputy Commissioner, Departmental Examiner, or Examiner shall be deemed banking experience, and experience as Building and Loan Supervisor or Building and Loan Examiner shall be deemed building and loan experience, within the meaning of this article. Further

provided that the Banking Section shall at all times consist of one (1) member, who is an officer in a state bank which, at the time of his appointment, had a capital and certified surplus not exceeding Fifty Thousand Dollars (\$50,000); two (2) members, each of whom is an officer of a state bank which, at the time of their appointment, had a capital and certified surplus exceeding Fifty Thousand Dollars (\$50,000) but not exceeding One Hundred Thousand Dollars (\$100,000); and one (1) member, who is an officer in a state bank, which, at the time of his appointment, had a capital and certified surplus exceeding One Hundred Thousand Dollars (\$100,000). The Building and Loan Section shall at all times consist of one (1) member who is a full time employed executive in a state association which, at the time of his appointment, had gross assets not exceeding Two Million Dollars (\$2,000,000), and one (1) member who is a full time employed executive in a state association which, at the time of his appointment, had gross assets exceeding Two Million Dollars (\$2,000,000). Two (2) members of the Banking Section and one (1) member of the Building and Loan Section shall be selected by the Governor upon the basis of recognized business ability. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 4.

Art. 342—105. Finance Commission—Residence of Members

No two (2) members of the same section of the Finance Commission shall be residents of the same State Senatorial District. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 5.

Art. 342—106. Finance Commission—Members—Appointment—Term

The Governor of the State of Texas, subject to confirmation by the Senate, shall appoint the members of the Finance Commission, each of whom, except the initial appointees, shall serve for a term of six (6) years, and the term of one third of the members of each section shall expire each two (2) years; further provided that the Governor shall, promptly after the effective date of this Act,¹ appoint nine (9) members to the Finance Commission, and designate the term to be served by each appointee; the term of two (2) members of the Banking Section and one (1) member of the Building and Loan Section to expire February 1, 1945, February 1, 1947, and February 1, 1949, respectively. Members of the Finance Commission shall, subject to the provisions of Article 7 of this Chapter,² serve until their successors are appointed and have qualified by taking oath in the form prescribed by the State Banking Board. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 6.

¹ Effective 90 days after May 11, 1943, date of adjournment.

² Article 342—107.

Art. 342—107. Finance Commission—Vacancies

The office of a member of the Commission shall be vacant if the member ceases to have the qualifications of employment and residence which were necessary to his original appointment, provided that the increase or decrease in the capital and surplus of his employing bank, or the increase or decrease in the gross assets of his employing building and loan association shall not create a vacancy. In event of a vacancy on the Finance Commission for any cause, the Governor shall appoint a qualified person to fill the unexpired term. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 7.

Art. 342—108. Finance Commission—Confirmation of Appointments

In event of appointment of any member of the Finance Commission while the Legislature is in session, the appointment shall be promptly related to the Senate for confirmation, and in event of any such appoint-

ment while the Legislature is not in session, such appointment shall be promptly related to the Senate at the next meeting of the Legislature. If the Senate should refuse to confirm any appointment, the office shall thereupon become vacant. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 8.

Art. 342—109. Finance Commission—Expenses and Compensation of Members

Each member of the Finance Commission shall be reimbursed all expense incidental to travel incurred by him in connection with the performance of his official duties, not exceeding Four Dollars (\$4) per day plus cost of transportation, and in addition shall receive Five Dollars (\$5) per day compensation for his services for each day or fraction thereof while in attendance at any meeting of the Commission or either section thereof and while traveling to or from such meetings. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 9.

Art. 342—110. Finance Commission—Disqualification of Members

No member shall act at any meeting of the Commission or either section thereof, when the matter under consideration specifically relates to any corporation in which such member is an officer, director, or stockholder. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 10.

Art. 342—111. Finance Commission—Sections—Meetings—Quorum—Voting—Minutes

The Commission and each section thereof shall hold at least two regular meetings each year. Special meetings of the Commission may be called by the Commissioner, or by any three members of the Commission, and special meetings of either section thereof may be called by the Commissioner or any two members of the section which is to meet. The Commission and each section thereof may adopt rules and regulations governing the time and place of meetings, the character of notice of special meetings, the procedure by which all meetings are to be conducted, and other similar matters. A majority of the membership of the Commission shall constitute a quorum for the purpose of transacting any business coming before the Commission and a majority of each section shall constitute a quorum for the purpose of transacting any business coming before said section. The Commissioner shall preside at all meetings of the Commission and of each section thereof, but shall not vote except in the case of a tie or when his vote is necessary for effective action. Provided that the Commissioner shall not preside or vote at any meeting when the Finance Commission is considering the election of the Commissioner but the Commission shall elect one of its members to act as temporary chairman, who shall be entitled to vote. The Commission and each section thereof shall keep adequate minutes of the proceedings of all meetings. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 11.

Art. 342—112. Finance Commission—Report of Commissioner—Report of Commission—Limitation of Expenses of Banking Department

The Commissioner shall, from time to time, as directed by the Finance Commission submit to such Commission a full and complete report of the receipts and expenditures of the Banking Department, and the Finance Commission may from time to time examine the financial records of the Banking Department or cause them to be examined. The Finance Commission shall biennially submit to the Legislature, by filing with the Clerks of the Senate and House of Representatives, its recommendations

as to the financial needs of the Banking Department, and shall, if the departmental appropriation or any portion thereof is a lump sum or unitemized appropriation, adopt and from time to time amend budgets which shall limit and control the expenditure of such lump sum or unitemized appropriation. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 12.

Art. 342—113. Banking Section—Rules and Regulations—Loans and Investments—Insurance—Preservation of Books and Records

The Banking Section, through resolution adopted by not less than four affirmative votes, may promulgate general rules and regulations not inconsistent with the Constitution and Statutes of this State, and from time to time amend the same, which rules and regulations shall be applicable alike to all state banks to effect the following ends and purposes:

1. To prevent state banks from concentrating an excessive or unreasonable portion of their resources in any particular type or character of investment or in any single line of credit under any exception to Article 7, of Chapter V of this Code,¹ thereby preventing the solvency or liquidity of such banks depending to an undue extent upon such type or character of investment or single line of credit.

2. To provide adequate fidelity coverage or insurance on the officers and employees of state banks, and fire, burglary, robbery and other casualty coverage for state banks, so as to prevent loss through theft, defalcation or other casualty, and to make certain that the insurer or surety is solvent and will be able to pay losses sustained.

3. To provide for the preservation of the books and records of the Banking Department and of state banks during such time as said books and records are of value, and to permit the destruction or other disposition of such books and records after the same are no longer of any value. Provided, however, that every state bank shall preserve all of its records of final entry, or a facsimile thereof, including cards used under a card system and deposit tickets, for a period of at least ten (10) years from the date of the last entry on such records. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 13.

¹ Article 342—507.

Derivation:

Vernon's Ann.Civ.St. arts. 375d, 498.

Art. 342—114. Building and Loan Section—Rules and Regulations—Loans and Investments—Advisory Powers

The Building and Loan Section, through resolution adopted by not less than two affirmative votes, may promulgate general rules and regulations not inconsistent with the Constitution and Statutes of this State, and from time to time amend the same, which rules and regulations shall be applicable alike to all State associations, and shall authorize building and loan associations organized under the laws of this State to invest their funds in any manner and to the same extent which said association could invest such funds under existing or any future law, rule or regulation were they organized and operating as a Federal savings and loan association under the laws of the United States, provided, however, that this authority shall not be construed in any wise to confer authority to abridge or diminish or limit any rights or powers specifically given to State associations by the statutory laws of this State.

In addition to such powers as may be conferred upon the Building and Loan Section by this Act or by the building and loan laws of Texas as amended, the Building and Loan Section shall have the following duties:

(a) When in the judgment of the Banking Commissioner or if in its own judgment protection of investors in State associations requires additional regulations or limitations, to recommend to the Commissioner such additional rules and regulations as will in its judgment prevent State building and loan associations from concentrating an excessive or unreasonable portion of their resources in any particular type or character of loan or security authorized by subdivisions 4 and 6-d of Section 38 of the Building and Loan Act of this State.¹

(b) Upon the request of the Banking Commissioner to recommend to him standards for investments by State associations in the obligations authorized under the provisions of subdivision 5-c of Section 38 of the Building and Loan Act of this State,¹ which standards may also recommend a limit in the amount which State associations may invest in any particular type or character of investment under said subdivision to an amount or percentage based upon assets or reserves, permanent capital and undivided profits.

(c) To advise with the Commissioner or the Building and Loan Supervisor as to the forms to be prescribed for the filing of the annual statements with the Banking Department and the forms to be prescribed for the publication of the semiannual financial statements by State associations.

(d) To confer with the Commissioner and the Building and Loan Supervisor and with the President of the regional Federal Home Loan Bank of the district in which Texas State associations are members on general and special business and economic conditions affecting State associations.

(e) To request information and to make recommendations with respect to matters within the jurisdiction of the Commissioner and the Building and Loan Supervisor as relating to the building and loan business, including recommendations as to legislation affecting such institutions, providing, that no information regarding the financial condition of any State building and loan association obtained through examination or otherwise shall be divulged to any member of the Finance Commission, nor shall any member of the Finance Commission be given access to the files and records of the Department appertaining thereto; provided, further, however, that the Commissioner may disclose to the Building and Loan Section any file or record pertinent to any hearing or matter pending before such section. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 14.

¹ Article 881a—37.

Art. 342—115. State Banking Board—Members—Powers

The State Banking Board shall consist of the Attorney General, the State Treasurer and the Banking Commissioner; shall have such powers and duties as are conferred upon it by this Code¹ and by other laws of this State; and its findings and determinations shall be subject to review and may be set aside by a court of competent jurisdiction. The orders of the State Banking Board may be appealed to a court of competent jurisdiction and the trial in the court of competent jurisdiction shall be de novo the same as if said matter had been originally filed in such court. The State Banking Board shall have authority to promulgate rules and regulations prescribing the time and place of its meetings and hearings, and the procedure to govern the same. Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 15.

¹ Articles 342—101 to 342—911.

Derivation:

Vernon's Ann.Civ.St. art. 439.

CHAPTER II—THE BANKING DEPARTMENT OF TEXAS

<p>Art. 342—201. Banking Commissioner—Election — Qualifications — Salary — Vacancy.</p> <p>342—202. Deputy Commissioner—Appointment — Qualifications — Duties—Salary.</p> <p>342—203. Departmental Examiner—Appointment — Qualifications — Salary.</p> <p>342—204. Examiners—Assistant Examiners — Appointment — Qualifications—Salary.</p> <p>342—205. Building and Loan Supervisor and Other Employees—Appointment—Salary.</p>	<p>Art. 342—206. Oath and Bond of Commissioner and Others—Premiums.</p> <p>342—207. Commissioner—General Powers —Duties—Liabilities of Commissioner and Others—Defense by Attorney General.</p> <p>342—208. Examination—May Administer Oath—Fees—Disposition.</p> <p>342—209. Call Statements—Filing—Publication—Posting—Penalty.</p> <p>342—210. Information Confidential—Privileged—Exceptions.</p> <p>342—211. Violation of Duty by Commissioner and Others—Penalty.</p>
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Art. 342—201. Banking Commissioner—Election—Qualifications—Salary—Vacancy

By and with the advice and consent of the Senate, the Finance Commission, by at least five (5) affirmative votes, shall elect a Commissioner who shall serve at the pleasure of the Finance Commission, provided that the Commissioner first elected shall take office at the expiration of the term of office of the present Commissioner; said Commissioner shall be an employee of the Finance Commission and subject to its orders and directions. The Commissioner shall be a practical banker with not less than five (5) years' experience, within ten (10) years prior to his election, as an executive in a state bank in a grade not lower than cashier, provided that experience as Commissioner, Deputy Commissioner, Departmental Examiner or Examiner of the Banking Department of Texas shall be deemed banking experience within the meaning of this article. The compensation of the Commissioner shall be fixed by the Departmental Appropriation bill, but shall not exceed Seven Thousand Five Hundred Dollars (\$7,500) per annum. In event of a vacancy in the office of Commissioner, the Finance Commission shall elect a qualified person to fill the unexpired term in the same manner as herein provided for the election of the Commissioner. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 1.

Derivation:

Vernon's Ann.Civ.St. arts. 342, 343, 345.

Art. 342—202. Deputy Commissioner—Appointment—Qualifications—Duties—Salary

The Commissioner shall appoint a Deputy Banking Commissioner, who shall have the same qualifications as are required of the Commissioner, and shall, during the absence or inability of the Commissioner, or under his instructions, or in event of a vacancy in the office of the Commissioner, be vested with all of the powers and perform all of the duties of the Commissioner. The compensation of the Deputy Commissioner shall be fixed by the Departmental Appropriation bill, but shall not exceed Six Thousand Dollars (\$6,000) per annum. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 2.

Derivation:

Vernon's Ann.Civ.St. art. 346.

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

Art. 342—203. Departmental Examiner—Appointment—Qualifications—Salary

The Commissioner shall appoint a Departmental Bank Examiner who shall be a bank accountant with not less than five (5) years' experience as such or as an examiner in the Banking Department of Texas, the National Banking System, the Federal Deposit Insurance Corporation or the Federal Reserve System. The compensation of the Departmental Examiner shall be fixed by the Departmental Appropriation bill, but shall not exceed Five Thousand Five Hundred Dollars (\$5,500) per annum. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 3.

Derivation:

Vernon's Ann.Civ.St. arts. 351, 354.

Art. 342—204. Examiners—Assistant Examiners—Appointment—Qualifications—Salary

The Commissioner shall appoint not exceeding one (1) bank examiner and one (1) assistant bank examiner for each forty (40) corporations subject to examination by the Banking Department. Such examiners shall have the qualifications required of the Departmental Examiner, provided that experience as assistant examiner or Liquidating Supervisor of the Banking Department of Texas shall be included as qualifying experience. Each examiner shall receive not exceeding Three Thousand Dollars (\$3,000) for his first year's service; Three Thousand Five Hundred Dollars (\$3,500) for his second year's service; Four Thousand Dollars (\$4,000) for his third year's service; Four Thousand Five Hundred Dollars (\$4,500) for his fourth year's service; and Five Thousand Dollars (\$5,000) for his fifth and each subsequent year's service. In determining the salary of an examiner his service need not be continuous. Assistant examiners shall receive not exceeding Two Thousand Four Hundred Dollars (\$2,400) per annum. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 4.

Derivation:

Vernon's Ann.Civ.St. arts. 350, 351, 353.

Art. 342—205. Building and Loan Supervisor and Other Employees—Appointment—Salary

The Commissioner shall appoint a Building and Loan Supervisor, Building and Loan Examiners and such other officers and employees as may be necessary to maintain and operate the Banking Department and to enforce the laws of this State relative to corporations under the supervision of the Banking Department. The compensation of the Building and Loan Supervisor shall be fixed by the Departmental Appropriation bill, but shall not exceed Five Thousand Dollars (\$5,000) per annum. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 5.

Art. 342—206. Oath and Bond of Commissioner and Others—Premiums

The Commissioner, the Deputy Commissioner, the Departmental Examiner, the Liquidating Supervisor, and each examiner, assistant examiner, and special agent, the Building and Loan Supervisor and each building and loan examiner and each other officer and employee specified by the Commissioner shall, before entering upon the duties of his office, take an oath of office and make a fidelity bond in the sum of Ten Thousand Dollars (\$10,000), payable to the Governor of the State of Texas, and his successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the United States Government. Any bond provided

under this article shall be on a form approved by the Finance Commission. The premiums for such bonds shall be paid out of the funds appropriated for the operation of the Banking Department. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 6.

Derivation:

Vernon's Ann.Civ.St. arts. 344, 346, 352.

Art. 342—207. Commissioner—General Powers—Duties—Liabilities of Commissioner and Others—Defense by Attorney General

The Commissioner shall supervise and shall regulate, as provided in this Code,¹ all state banks and shall enforce the provisions of this Code in person or through the Deputy Commissioner, the Departmental Examiner or any examiner. The Commissioner, each member of the Finance Commission, each member of the State Banking Board, the Deputy Commissioner, the Departmental Examiner, the Liquidating Supervisor, each examiner, assistant examiner, and special agent, the Building and Loan Supervisor, each building and loan examiner, and each other officer and employee of the State Banking Department shall not be personally liable for damages occasioned by his official acts or omissions except when such acts or omissions are corrupt or malicious. The Attorney General shall defend any action brought against any of the above mentioned officers or employees by reason of his official act or omission, whether or not at the time of the institution of the action the defendant has terminated his service with the Department. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 7.

¹ Articles 342—101 to 342—911.

Derivation:

Vernon's Ann.Civ.St. arts. 347, 349, 548.

Vernon's Ann.P.C. art. 551.

Art. 342—208. Examination—May Administer Oath—Fees—Disposition

The Commissioner shall examine each state bank at least twice each year, and as often as he deems necessary to safeguard the interests of depositors, creditors and stockholders and to enforce the provisions of this Code. The Commissioner, Deputy Commissioner, Departmental Examiner and each examiner may administer oaths and examine any person under oath upon any subject which he deems pertinent to the financial condition of any state bank. The Commissioner shall assess and collect a fee in connection with each examination, based on the bank's total assets, covering the cost of such examination, the equitable or proportionate cost of maintenance and operation of the Banking Department, and the enforcement of the provisions of this Code, including, but not limited to, the premium on the bond of the Commissioner and other officers and employees of the Banking Department, and such other fidelity or casualty insurance or coverage required or furnished pursuant to or in connection with the provisions of this Code, together with expenses authorized under Articles 3, 9, and 12 of Chapter I of this Code,¹ which fees shall in no event be less than Fifty Dollars (\$50) for each examination so made. Such fees, together with any other fees, penalties or revenues collected by the Commissioner pursuant to the provisions of this Code or pursuant to other laws of this State relative to corporations under the supervision of the Banking Department, shall be paid by the Commissioner to the State Treasurer who shall deposit the same to the credit of the General Revenue Fund. The expenses of examination and of the Commissioner in enforcing the provisions of this Code shall be paid upon the certificate of the Commissioner by warrant of the Comptroller upon the State Treasury.

All officers and employees of the Banking Department shall be reimbursed for their services and expenses necessarily incurred in the discharge of their duties, as provided in this Code or any amendment thereto, and as may be now or hereafter provided by statute. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 8.

1 Articles 342—103, 342—109, 342—112.

Derivation:

Vernon's Ann.Civ.St. arts. 350, 353, 361,
362, 363.

Art. 342—209. Call Statements—Filing—Publication—Posting—Penalty

The Commissioner shall at least twice each year call upon each state bank to make and publish a statement of its financial condition as of the close of business on a date specified in such call. Such statements shall be upon such form and reflect such information as may be prescribed by the Commissioner; shall be sworn to by any one of the following: the president, vice-president, cashier, assistant cashier, secretary, or treasurer, and attested by at least three directors; and shall be filed with the Commissioner within ten (10) days after such call. Such statement shall be published within twenty (20) days of the date of such call in some newspaper of general circulation published in the county of the bank's domicile, or if no such newspaper is published in said county, then in a newspaper of general circulation published in an adjacent county, and a publisher's certificate reflecting such publication shall be filed with the Commissioner within thirty (30) days after such call. A copy of the latest called statement shall be kept posted in the lobby of the banking house at a point accessible to the public. Any state bank which fails to file or publish such statement or to file such publisher's certificate, within the periods herein prescribed, or to post such notice, shall be subject to a penalty not exceeding Five Hundred Dollars (\$500) to be collected by suit by the Attorney General on behalf of the Commissioner. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 9.

Derivation:

Vernon's Ann.Civ.St. arts. 494—497.

Vernon's Ann.P.C. art. 552.

Art. 342—210. Information Confidential—Privileged—Exceptions

Subject to the provisions of Section 5 of Chapter 183 of the Forty-fourth Legislature of Texas (1935), page 461 (Article 489b, Section 5), and any other statutory provision of this State, all information obtained by the Banking Department relative to the financial condition of state banks, whether obtained through examination or otherwise, except published statements, and all files and records of said Department relative thereto shall be confidential, and shall not be disclosed by the Commissioner or any officer or employee of said Department. Further provided that no such information shall be divulged to any member of the Finance Commission, nor shall any member of the Finance Commission be given access to such files and records of the Banking Department; provided, however, that the Commissioner may disclose to the Finance Commission, or either section thereof, or to the State Banking Board information, files and records pertinent to any hearing or matter pending before such Commission or either section thereof or such Board. Further provided that upon request, the Commissioner may disclose to a Federal Reserve Bank any information relative to its members, and shall permit it access to any files and records or reports relating to its members. Further provided that the Commissioner may, in his discretion, if he deems it necessary or proper to the enforcement of the laws of this State or the United States, and to the best interest of the public,

divulge such information to any other department of the State or National Government, or any agency or instrumentality thereof. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 10.

Derivation:

Vernon's Ann.Civ.St. arts. 356, 359.

Art. 342—211. Violation of Duty by Commissioner and Others—Penalty

If the Commissioner or any officer or employee of the Banking Department shall give advance notice of any call to be made pursuant to Article 9¹ of this chapter; or divulge information or permit access to any file or record of the Banking Department in violation of Article 10² of this chapter; or knowingly be or become indebted to, or financially interested in, any state bank, directly or indirectly; or purchase any asset belonging to any state bank in the hands of the Commissioner for purposes of liquidation, he shall be deemed guilty of a misdemeanor in office, and shall upon conviction be fined not exceeding Two Hundred Dollars (\$200), and forfeit his office or employment. Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 11.

¹ Article 342—209.

² Article 342—210.

Derivation:

Vernon's Ann.Civ.St. arts. 355, 356, 529.

Vernon's Ann.P.C. arts. 548, 548a, 552.

CHAPTER III—INCORPORATION, MERGER, REORGANIZATION, PURCHASE OF ASSETS OF ANOTHER BANK, DISBURSING AGENT, AMENDMENT OF ARTICLES OF ASSOCIATION OF STATE BANKS, AND CONVERSION

Art.		Art.	
342—301.	Powers.	342—309.	Reorganization—Incorporation to Take Over Business of Other Banks—Trust Powers.
342—302.	Legislative Control.	342—310.	Purchase of Assets of Another Bank—Disbursing Agent.
342—303.	Capital and Surplus Requirements.	342—311.	Existing Corporations—Powers Retained.
342—304.	Articles of Association.	342—312.	Amendment of Articles of Association—Rights of Stockholders upon Increase in Capital.
342—305.	Application for and Granting of Charters — Approval — Conditional Approval.	342—313.	Conversion of State Bank into National Bank.
342—306.	Recordation of Articles of Association and Amendments.		
342—307.	Certificate of Authority—Posting —Revocation of Charter.		
342—308.	Merger—Trust Powers.		

Art. 342—301. Powers

Subject to the provisions of this Code,¹ five (5) or more persons, a majority of whom are residents of this State, may incorporate a state bank, with any one or more or all of the following powers:

(a) To receive time and demand deposits at interest or without interest; to lend money with or without security at interest; and to buy, sell and discount bonds, negotiable instruments and other evidences of indebtedness.

(b) To act as fiscal agent or transfer agent and in such capacity to receive and disburse money and to transfer registered and countersigned certificates of stock, bonds or other evidences of indebtedness.

(c) To act as trustee under any mortgage or bond issue and to accept and execute any trust not inconsistent with the laws of this State.

(d) To act under the order or appointment of any court of record as guardian, receiver, trustee, executor or administrator, and, although with-

out general depository powers, to act as depository for any moneys paid into court.

(e) To purchase, invest in, and sell bills of exchange, bonds, mortgages and other evidences of indebtedness, and to lend money and to charge and collect interest thereon in advance or otherwise.

(f) To receive savings deposits with or without the payment of interest.

(g) To receive time deposits with or without the payment of interest.

(h) To issue, sell and negotiate notes, bonds and other evidences of indebtedness, and, in addition, to issue and sell, for cash or on an installment basis, investment certificates, creating no relation of debtor and creditor between the bank and the holder, to be retired solely out of specified surplus, reserves, or special retirement account, and containing such provisions relative to yield, retirement, penalties, withdrawal values, and obligations of the issuing bank as may be approved by the Commissioner.

A state bank shall have all incidental powers necessary to exercise its specific powers. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 1.

¹ Articles 342—301 to 342—911.

Derivation:

Vernon's Ann.Civ.St. arts. 376, 392, 396, 511, 543, 545.

Art. 342—302. Legislative Control

The rights, privileges and powers conferred by this Code ¹ are held subject to the right of the Legislature to amend, alter or reform the same. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 2.

¹ Articles 342—101 to 342—911.

Art. 342—303. Capital and Surplus Requirements

No state bank shall be hereafter chartered with a capital less than the following requirements, nor shall any state bank be permitted to reduce its capital below such requirements, said requirements to be determined by the last Federal Census preceding the granting of the charter or the reduction in capital:

(a) If domiciled in a city or town with not over five thousand (5,000) population, a minimum capital of Twenty-five Thousand Dollars (\$25,000).

(b) If the population is over five thousand (5,000), a minimum capital of Fifty Thousand Dollars (\$50,000).

(c) If the population is over fifteen thousand (15,000), a minimum capital of Seventy-five Thousand Dollars (\$75,000).

(d) If the population is over thirty thousand (30,000), a minimum capital of One Hundred Thousand Dollars (\$100,000).

Provided that any state bank authorized to exercise the trust or other powers specified in subsection (b), (c), or (d) of Article 1 ¹ of this chapter shall have at least Fifty Thousand Dollars (\$50,000) capital. Further provided that the State Banking Board may, in granting a charter, require surplus to be paid in an amount not to exceed twenty-five per cent (25%) of the common capital. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 3.

¹ Article 342—301.

Derivation:

Vernon's Ann.Civ.St. arts. 391, 395, 544.

Art. 342—304. Articles of Association

The articles of association of a state bank shall be signed and acknowledged by each person subscribing to stock and shall contain:

1. The name of the corporation.

2. The city or town and the county of its domicile.
3. Such of the powers listed in Article 1¹ of this chapter as it shall choose to exercise.
4. The capital and the denomination and number of shares.
5. The name and address of each subscriber for stock and the number of shares subscribed for by him.
6. The number of directors.
7. The number of years the corporation is to continue, not to exceed fifty (50), provided, however, that each such corporation shall have the right of renewal on the compliance with this Code.² Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 4.

¹ Article 342—301.

² Articles 342—101 to 342—911.

Derivation:

Vernon's Ann.Civ.St. arts. 377, 378.

Art. 342—305. Application For and Granting of Charters—Approval—Conditional Approval

Applicants shall file with the Commissioner an application for charter on such form and include therein such information as may be prescribed by the Commissioner, and the proposed articles of association; shall pay an investigation fee as prescribed under Article 3921, Revised Statutes of Texas, 1925, and deposit with the Commissioner charter fees as prescribed by law. The Commissioner shall thereupon make a thorough investigation and report his findings to the State Banking Board.

In considering any such application, the State Banking Board shall, after hearing, determine whether or not:

1. A public necessity exists for the proposed bank.
2. The proposed capital structure is adequate.
3. The volume of business in the community where such proposed bank is to be established is such as to indicate profitable operation of the proposed bank.
4. The proposed officers and directors have sufficient banking experience, ability and standing to render success of the proposed bank probable.
5. The applicants are acting in good faith.

Should the State Banking Board determine any of the above issues adversely to the applicants, it shall reject the application. Otherwise such Board shall approve the application and the Commissioner shall, when the capital has been paid in in cash and the franchise tax paid, deliver to the incorporators a certified copy of the articles of association, and the bank shall come into corporate existence. Provided, however, that the State Banking Board may make its approval of any application conditional, and in such event shall set out such condition in the resolution granting the charter, and the Commissioner shall not deliver the certified copy of the articles of association until such condition has been met, after which the Commissioner shall in writing inform the State Banking Board as to compliance with such condition and delivery of the articles of association. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 5.

Derivation:

Vernon's Ann.Civ.St. arts. 378—381, 384.

Art. 342—306. Recordation of Articles of Association and Amendments

The bank shall, upon receipt from the Commissioner of a certified copy of its articles of association and any amendment thereto, file the same with the County Clerk of the county of the bank's domicile for rec-

ordination in the Deed Records of said county. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 6.

Derivation:

Vernon's Ann.Civ.St. art. 331.

Art. 342—307. Certificate of Authority—Posting—Revocation of Charter

No state bank may do business until it receives a certificate of authority from the Commissioner, which shall not be delivered until it has elected the officers and directors named in the application for charter or other officers and directors approved by the Commissioner; shall have adopted by-laws approved by the Commissioner; and shall have complied with all the other requirements of this Code¹ relative to the incorporation of state banks.

If any state bank does not open and actually engage in business within three months after the granting of its charter, or conditional approval of application for charter, the Commissioner may so inform the State Banking Board which may in its discretion forfeit the charter or cancel its conditional approval of application for charter, without any judicial action.

Each state bank shall keep its certificate of authority posted in its lobby at a point accessible to the public. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 7.

¹ Articles 342—101 to 342—911.

Vernon's Ann.Civ.St. arts. 382, 387a.

Art. 342—308. Merger—Trust Powers

Any two or more state banks, or if national banks are hereafter authorized by the laws of the United States to participate in such a merger, any one or more state banks and any one or more national banks domiciled in this State may, with the approval of the Commissioner and the written consent of the owners of record of two-thirds of the capital of each of said banks, be merged. Said merging banks shall file with the Commissioner:

(1) A statement of the plan of merger approved by the board of directors of each merging bank, by a majority vote of the qualified directors.

(2) Written consent to such merger executed by the owners of record of two-thirds of the capital of each merging bank.

(3) Certificate of merger stating the facts required by Article 4¹ of this chapter and executed and acknowledged by a majority of the qualified directors of each merging bank.

The Banking Commissioner shall thereupon investigate the condition of the merging banks and if he finds that the state bank which will result from the merger (hereafter called the "resulting bank") will be solvent and its capital unimpaired; that it will have adequate capital structure; that such merger is to the best interest of the depositors, creditors and stockholders of the merging banks and of the public in general; that the distribution of the stock of the resulting bank is to be upon an equitable basis; and that the resulting bank has in all respects complied with the laws of this State relative to the incorporation of State banks, he may approve such merger, and, if he so approves, he shall deliver to the resulting bank a certified copy of the certificate of merger, which certificate shall constitute the charter and articles of association of the resulting bank, and shall be filed as provided in Article 6² of this chapter. The resulting bank shall be deemed a continuation in entity and identity of each of the banks involved in the merger; shall be subject to all the liabilities, obligations, duties and relations of each merging bank; and shall without the necessity of any conveyance, assignment or trans-

fer become the owner of all of the assets of every kind and character formerly belonging to the merging banks; further, provided, that if any merging bank shall at the time of the merger be acting as trustee, guardian, executor, administrator, or in any other fiduciary capacity, the resulting bank shall, without the necessity of any judicial action or action by the creator of such trust, continue such office, trust or fiduciary relationship and shall perform all of the duties and obligations and exercise all of the powers and authority connected with or incidental to such fiduciary relationship in the same manner as though the resulting bank had been originally named or designated as such fiduciary.

The naming or designating by a testator, or the creator of a living trust, of any one of the merging banks to act as trustee, guardian, executor or in any other fiduciary capacity shall be considered the naming or designating of the bank resulting from the merger. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 8.

¹ Article 342—304.

² Article 342—306.

Art. 342—309. Reorganization—Incorporation to Take Over Business of Other Banks—Trust Powers

A state bank may be incorporated to take over the business of any incorporated bank or banks, state or national, as a step in the reorganization of such bank or banks, (which bank or banks, whether one or more, will be hereafter referred to as the "reorganizing bank"), and shall, subject to the provisions of this article, be authorized to purchase assets from the reorganizing bank and as consideration therefor, assume all liabilities, known or unknown, of the reorganizing bank, other than its liability to stockholders as such.

Persons desiring to incorporate a state bank under the provisions of this article shall proceed in the manner provided in Article 5 of this chapter,¹ and in addition, shall file with the Commissioner:

(1) The proposed contract whereby the state bank is to purchase the assets from and assume the liabilities of the reorganizing bank, as above mentioned.

(2) Contracts, if any, whereby the proposed state bank is to purchase for cash the whole or any part of the right of any or all of the stockholders of the reorganizing bank to receive liquidating dividends upon liquidation of the reorganizing bank, which contracts shall expressly provide that they shall be binding and effective only in event the reorganizing bank is placed in voluntary liquidation within ten (10) days of the granting of the application for the charter applied for. Such contracts shall be executed on behalf of the proposed bank by the persons applying for the charter.

If the Commissioner, after investigation, determines that the proposed bank, if incorporated, will, after its capital has been paid in in full and all contracts above mentioned finally consummated, be solvent, its capital adequate and unimpaired, that such reorganization is to the best interest of the reorganizing bank, its depositors, creditors and stockholders and the public in general, and that upon incorporation such bank will have in all other respects complied with the law, he shall recommend to the State Banking Board that the charter be granted.

If the State Banking Board concurs in the findings of the Commissioner, it shall grant the application, and the Commissioner shall deliver a certified copy of the articles of association in the manner provided in Article 5 of this chapter. Provided, however, that the Commissioner shall not deliver a certificate of authority until the contracts above mentioned have been fully consummated, and the requirements of Article 7 of this chapter² have been met. The state bank so incorporated shall be

deemed a reorganization of the reorganizing bank, and a continuation of such bank in entity and identity, subject to all of its liabilities, obligations, duties and relations, save and except its liability to stockholders as such, and shall pay and perform each and every obligation, duty and liability of the reorganizing bank in exactly the same manner as the reorganizing bank was obligated to do; further provided that if the reorganizing bank was at the time of incorporation of the new state bank, named or acting as guardian, trustee, executor, administrator or in any other fiduciary capacity, such state bank shall, without the necessity of any judicial action, or action by the creator of such trust, continue the trusteeship or other fiduciary relation and perform all of the duties and obligations of the reorganizing bank and exercise all the powers and authority relative thereto; and neither the reorganization of such bank, nor any liquidation of such bank in connection therewith, shall be deemed a resignation or refusal to act. The naming or designating by a testator or the creator of a living trust of the reorganizing bank to act as trustee, guardian, executor, or in any other fiduciary capacity shall be considered the naming or designating of the bank resulting from the reorganization.

The new state bank shall give notice of its assumption of the liabilities of the reorganizing bank by publishing notice thereof once each week for a period of two (2) weeks in some newspaper of general circulation published in the county of its domicile, or in event no such newspaper is published in said county, then in a newspaper of general circulation published in an adjacent county. The first notice shall be published within ten (10) days after the delivery of the certificate of authority to such bank. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 9.

¹ Article 342—305.

² Article 342—307.

Art. 342—310. Purchase of Assets of Another Bank—Disbursing Agent

Any state bank may, with the consent of the Commissioner, purchase the whole or any part of the assets of any other state bank or of any national bank domiciled in this State, and may hold the purchase price and any additional funds delivered to it by the selling bank in trust for or as a deposit to the credit of the selling bank. The purchasing bank may act as agent of the selling bank in disbursing the funds so held in trust or on deposit by paying the depositors and creditors of the selling bank, provided that if the purchasing bank acts under written contract of agency which specifically names each depositor and creditor and the amount to be paid each, and if such agency is confined to the purely ministerial act of paying such depositors and creditors the amounts due them as determined by the selling bank and reflected in the contract of agency and involves no discretionary duties or authority other than the identification of the depositors and creditors named, and if such contract is approved by the Commissioner, then the purchasing bank may rely upon such contract of agency and the instructions included therein, and shall not be in any way liable or responsible for any error made by the selling bank in determining its liabilities, the depositors and creditors to whom such liabilities are due, or the amounts due such depositors and creditors; nor liable or in any way responsible for any preference which may result from the payments made pursuant to such contract of agency and the instructions included therein. Further provided that, in event the selling bank should, at any time after such sale of assets, be closed and come into the hands of the Commissioner or, if a national bank into the hands of a receiver, then the purchasing bank shall pay to the Commissioner as statutory liquidator or to the receiver of such national bank the balance of the funds held by it in trust or on deposit for the selling

bank, not theretofore paid to the depositors and creditors of the selling bank, and shall thereupon stand discharged of any and all liabilities, obligations or responsibilities to the selling bank, its receiver, the Commissioner as its statutory liquidator, or to the depositors, creditors or stockholders thereof. Provided further that payment to any depositor or creditor of the selling bank of the amount to be paid him under the terms of the contract of agency may be effected by the purchasing bank opening an account in the name of such depositor or creditor, crediting such account with the amount to be paid the depositor or creditor under the terms of such agency contract, and mailing a duplicate deposit ticket evidencing such credit to such depositor or creditor at his address as reflected by the records of the selling bank, or delivering it to him personally, and the relation of debtor to creditor shall thereupon arise between the purchasing bank and such depositors and creditors to the extent and only to the extent of the credit reflected by such deposit tickets. Further provided, that if any such depositor or creditor checks upon the credit so created, or if he does not within sixty (60) days of the mailing or the personal delivery of such deposit ticket protest the transaction and demand payment from the selling bank, he shall be deemed to have ratified the transaction and to the extent of the credit so created to have accepted the obligation of the purchasing bank as reflected by said deposit ticket in satisfaction of the obligation of the selling bank, and the obligation of the selling bank to the extent of such credit shall be deemed paid and satisfied within the meaning of this article. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 10.

Art. 342—311. Existing Corporations—Powers Retained

All corporations which on the effective date of this Act¹ were subject to the provisions of Title 16 of the Revised Civil Statutes of Texas, 1925, as amended,² or any chapter thereof, shall retain the powers provided in their charters. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 11.

¹ Effective 90 days after May 11, 1943, date of adjournment.

² Articles 342 to 548.

Derivation:

Vernon's Ann.Civ.St. arts. 381a, 548a.

Art. 342—312. Amendment of Articles of Association—Rights of Stockholders upon Increase in Capital

Subject to the provisions of this Code,¹ any state bank may amend its articles of association for any lawful purpose.

If the owners of record of two-thirds of the capital stock, at any regular meeting of stockholders, or any special meeting called for that purpose, vote to amend the charter, the board of directors shall prepare, execute in the manner provided for the execution of articles of association, and file with the Commissioner an amendment to the articles of association. If the Commissioner finds that the amendment is not violative of law and does not prejudice the interests of depositors and creditors or the public, he shall approve such amendment and deliver to the bank a certified copy thereof, and said amendment shall thereupon become effective; provided, however, that if a state bank does not have the power to receive demand deposits, no amendments of its articles of association adopting any power provided under subsection (a), (b), (c), (d), or (f) of Article 1 of this chapter² and no amendment changing the domicile of any state bank to another city or town shall be effective until approved by the State Banking Board in the manner provided for the approval of an original application for charter. Each stockholder of a state bank shall be entitled to his proportionate part of any increase of

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

stock effected out of surplus funds or undivided profits, and shall be entitled to subscribe for his proportionate share of any capital increase to be paid in cash; provided, however, that each stockholder or his assignee, in event he elects to assign such right of subscription, shall subscribe for and pay the amount of such subscription to the corporation within ten 10 days after the stockholders have adopted such amendment, otherwise the board of directors may allocate the unsubscribed or unpaid portion of the increase among the other stockholders or otherwise as they deem to the best interest of the bank. Provided further, that any state bank may, under the provisions of this Code, amend its articles of association so as to extend its corporate existence for a period not exceeding fifty (50) years from the effective date of such amendment. Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 12.

¹ Articles 342—101 to 342—911.

² Article 342—301.

Derivation:

Vernon's Ann.Civ.St. arts. 381a, 430, 505,
548a.

Art. 342—313. Conversion of State Bank into National Bank

The owners of record of two-thirds of the capital of any solvent state bank may, by vote or written consent, authorize its officers and directors to take such action as may be necessary under the laws of the United States to convert it into a national bank, provided, however, that the state bank shall not cease to be a state bank subject to the supervision of the Commissioner until (1) the Commissioner has been given written notice of the intention to convert for at least thirty (30) days, (2) such bank has published notice thereof at least once a week for four (4) weeks in a newspaper of general circulation published in the county of its domicile, or, if no such newspaper is published in the county, in an adjacent county, (3) the bank has filed with the Commissioner a transcript of the conversion proceedings, sworn to by a majority of the qualified directors and a publisher's certificate showing publication of the notice above provided, and (4) such bank has received a certificate of authority to do business as a national bank. Acts 1943, 48th Leg., p. 137, ch. 97 subch. III, art. 13.

Derivation:

Vernon's Ann.Civ.St. art. 502.

CHAPTER IV—STOCK, STOCKHOLDERS, BY-LAWS, DIRECTORS, OFFICERS, EMPLOYEES

Art.		Art.	
342—401.	Transfer of Stock.	342—411.	Officers—Transfer of Securities— Bills Payable—Rediscounts— Sale of Notes.
342—402.	Stockholders Meetings—Quorum —Voting.	342—412.	Officers and Directors—Removal.
342—403.	By-Laws—Adoption and Amend- ment.	342—413.	Officers, Employees, Agents— Embezzlement, Abstraction and Misapplication—Penalty.
342—404.	Directors—Number—Change of Number.	342—414.	Officers, Employees, Directors— False Entries and Statements —Penalty.
342—405.	Directors—Qualifications.	342—415.	Officers, Directors, Employees, Stockholders—Destruction of Bank Records—Penalty.
342—406.	Directors—Election—Failure to Elect—Term—Vacancy.	342—416.	Officers, Employees—Certifica- tion of Check Without Funds— Penalty.
342—407.	Directors—Oath and Acceptance.	342—417.	Officers, Directors and Em- ployees—Accepting Bonuses— Penalty.
342—408.	Directors—Meetings—Quorum.		
342—409.	Directors—Duties—Approval of Loans and Expenses—Election, Term and Compensation of Of- ficers.		
342—410.	Directors, Officers and Em- ployees — Liability —Reim- bursement for Expenses.		

Art. 342—401. Transfer of Stock

Shares of stock in a state bank shall be personal property and transferable only upon its books, and it shall be the duty of the officers of a state bank to transfer such stock upon its books at the request of the transferee, supported by a transfer in writing or other legally effective transfer. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 1.

Derivation:

Vernon's Ann.Civ.St. art. 377, § 5; art. 535.

Art. 342—402. Stockholders Meetings—Quorum—Voting

The stockholders of each state bank shall hold one (1) regular meeting each year at the time prescribed in its by-laws, and such special meetings as may be deemed necessary after notice as prescribed in the by-laws. At all stockholders' meetings the owners of a majority of the capital stock, present in person or by proxy, shall constitute a quorum. In the absence of a quorum a stockholders' meeting may be adjourned from time to time without notice to the stockholders. Each stockholder of record shall be entitled to one (1) vote for each share of stock owned by him, which he may cast in person or by proxy duly authorized in writing filed among the records of the bank. Stock owned of record by an estate shall be voted by its executor, administrator, guardian, trustee or personal representative and stock held in a fiduciary capacity shall be voted by the fiduciary. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 2.

Derivation:

Vernon's Ann.Civ.St. arts. 393, 503, 504.

Art. 342—403. By-Laws—Adoption and Amendment

The stockholders of a state bank shall adopt by-laws which may be amended at any regular annual meeting of the stockholders, or, if the purpose of the meeting is stated in the notice, at any special meeting of the stockholders called for that purpose. Neither the by-laws nor any amendment thereto shall be effective until filed with the Commissioner and approved by him. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 3.

Derivation:

Vernon's Ann.Civ.St. art. 387a.

Art. 342—404. Directors—Number—Change of Number

A state bank shall have not less than five (5) nor more than twenty-five (25) directors, the majority of whom shall be residents of the State of Texas. The number of directors may be changed from time to time within the limits above prescribed, without amendment of the charter, by resolution adopted at any regular meeting of stockholders or any special meeting of stockholders called for the purpose of electing directors, which resolution shall be spread on the minutes of the meeting, and a certified copy shall be filed with the Commissioner, for which filing no fee shall be charged. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 4.

Derivation:

Vernon's Ann.Civ.St. arts. 387, 388.

Art. 342—405. Directors—Qualifications

No person shall serve as director of a state bank when (1) the bank holds a judgment against him, or (2) he is not the bona fide owner in his own right of unpledged and unencumbered stock in said bank of a par value of One Thousand Dollars (\$1,000), or if the capital is not over Seventeen Thousand Five Hundred Dollars (\$17,500), of a par value of

Five Hundred Dollars (\$500). Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 5.

Derivation:

Vernon's Ann.Civ.St. arts. 386, 383.

Art. 342—406. Directors—Election—Failure to Elect—Term—Vacancy

Each state bank shall, at its regular annual meeting of stockholders, or at some adjournment thereof, or at a special meeting of stockholders called for such purpose, elect directors who shall serve until the next regular annual meeting of stockholders and until their successors have been elected and have qualified. If any state bank fails to elect directors within sixty (60) days after its regular annual meeting, the Commissioner may, after ten (10) days' notice by mail, call a meeting of stockholders for the purpose of electing directors, and if the stockholders do not elect directors at the meeting so called, the Commissioner may close the bank and liquidate it pursuant to the provisions of Chapter VIII of this Code.¹ Any vacancy on the Board of directors shall be filled by a majority vote of the remaining directors. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 6.

¹ Articles 342—801 to 342—816.

Derivation:

Vernon's Ann.Civ.St. arts. 386, 387, 387b, 390, 393, 394.

Art. 342—407. Directors—Oath and Acceptance

Prior to taking office and within thirty (30) days after his election each director in a state bank shall take oath that he is the bona fide owner in his own right of at least the minimum number of shares necessary for qualification; that such shares are not pledged or otherwise encumbered; that he accepts the position as director; and that he will not violate, nor knowingly permit any officer, director or employee of the bank to violate, the laws of the State of Texas in the conduct of the business of the bank; and that he will diligently perform his duties as director. Such affidavit shall be sworn and subscribed to before a notary public, spread upon the minutes of the directors' meeting, and a duplicate original thereof filed with the Commissioner. Failure to comply with any provision of this article shall forfeit the office and the same shall be deemed vacant. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 7.

Derivation:

Vernon's Ann.Civ.St. arts. 385, 386, 389.

Art. 342—408. Directors—Meetings—Quorum

The directors of a state bank shall hold at least one regular meeting each month as prescribed in the by-laws. Special meetings may be called in such manner and upon such notice as may be prescribed in the by-laws. A majority of the qualified directors shall constitute a quorum. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 8.

Derivation:

Vernon's Ann.Civ.St. art. 398.

Art. 342—409. Directors—Duties—Approval of Loans and Expenses—Election, Term and Compensation of Officers

Subject to the by-laws the board of directors of a state bank shall supervise the conduct of its business and may promulgate rules and regulations relative thereto and prescribe the duties and responsibilities of the officers and employees. At each regular meeting the board shall review and approve or disapprove each loan and investment made and item of expense incurred since the last meeting; and shall examine and take appropriate action upon the over-draft, suspense and bills

of exchange accounts. Such approval, disapproval or other action of the board shall be spread upon its minutes.

By a majority vote of its qualified members, the board shall elect a president, one or more vice presidents, and a cashier or secretary, and such other officers of the bank as may be prescribed by the by-laws or deemed necessary by the directors and fix their compensation; provided, however, that the president shall be a member of the board of directors. Each officer of the bank shall serve only during the pleasure of the board, and any contract for a fixed term of employment shall be void. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 9.

Derivation:

Vernon's Ann.Civ.St. arts. 499, 527.

Art. 342—410. Directors, Officers and Employees—Liability—Reimbursement for Expenses

Except as otherwise provided by statute, directors and officers of state banks shall be liable for financial losses sustained by state banks to the extent that directors and officers of other corporations are now responsible for such losses in equity and common law. Further provided that any officer or director who does not approve of any act or omission of the board, and desires to relieve himself from any personal liability for such act or omission shall promptly announce his opposition to such act or omission and cause such opposition to be spread upon the minutes of the directors' meeting. If for any reason such opposition is not spread upon the minutes of the directors' meeting, he shall promptly report the facts to the Commissioner.

Any person may be indemnified or reimbursed by a state bank, through action of its board, for reasonable expenses actually incurred by him in connection with any action, suit or proceeding to which he is a party by reason of his being or having been a director, officer or employee of said bank. If there is a compromise of such an action or threatened action, there shall be no indemnification or reimbursement for the amount paid to settle the claim or for reasonable expenses incurred in connection with such claim without the vote, or the written consent, of the owners of record of a majority of the stock of the bank. Provided, however, that no such person shall be indemnified or reimbursed if he has been finally adjudged to have been negligent in the performance of his duties or to have committed any act or to have failed to perform any duty for which there is a common law or statutory liability. This article shall not bar any right or action to which such person would be entitled at common law or any other statute of this State. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 10.

Derivation:

Vernon's Ann.Civ.St. arts. 508, 536.

Art. 342—411. Officers—Transfer of Securities—Bills Payable—Rediscounts—Sale of Notes

No officer of a state bank shall endorse, pledge, assign, transfer, rediscount or in anywise dispose of any note, bond, security or other obligation held by the bank, nor create any bills payable, unless he shall have previously been duly authorized to do so by the board of directors, as reflected by the minutes of its meeting. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 11.

Derivation:

Vernon's Ann.Civ.St. arts. 499, 528.

Vernon's Ann.P.C. art. 547b.

Art. 342—412. Officers and Directors—Removal

If the Commissioner finds that an officer, director or employee of a state bank violates the provisions of this Code¹ or any other law ap-

plicable to state banks; or refuses to comply with the provisions of this Code; wilfully neglects to perform his duties; is guilty of any fraudulent or questionable practice in the conduct of the bank's business that endangers the bank's reputation and standing in the community; or refuses to submit to examination under oath, the Commissioner shall call together the directors of said corporation and lay before them the facts and demand a discontinuance of such practices and compliance with the provisions of this Code. Provided, however, that if the Commissioner subsequently finds, through examination, that the offending officer, director or employee has continued to violate the provisions of this Code or any other law applicable to state banks, or has refused to comply with the provisions of this Code, and further finds that his removal is to the best interest of such bank and its depositors, creditors and stockholders, the Commissioner may serve him by mail at his last known address with an order of removal, effective ten (10) days after the mailing of such notice, which shall state the ground or grounds for such removal with reasonable certainty. Unless such officer, director or employee shall within ten (10) days after the date of mailing of such notice of removal, appeal to the State Banking Board, such order shall be effective and final. An officer, director or employee desiring to appeal from such order shall file notice of appeal with each member of the State Banking Board within such ten (10) days, and the State Banking Board shall notify the appellant of the time and place of hearing fixed by it. At such hearing the appellant shall be given a reasonable opportunity to be heard, and thereafter if the State Banking Board finds that the appellant is guilty of any charge stated by the Commissioner in his notice of removal sufficient to justify his removal and finds that it is to the best interest of the bank involved, its depositors, creditors and stockholders that the appellant be removed, the order of the Commissioner shall thereupon become final; otherwise the State Banking Board may by appropriate resolution set aside the order of removal theretofore made by the Commissioner. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 12.

¹ Articles 342—101 to 342—911.

Derivation:

Vernon's Ann.Civ.St. art. 368.

Vernon's Ann.P.C. arts. 547, 547b.

Art. 342—413. Officers, Employees, Agents—Embezzlement, Abstraction and Misapplication—Penalty

Any officer, employee or agent of a state bank who embezzles, fraudulently abstracts or wilfully misapplies money, funds, credit or other asset of such bank shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than ten (10) years, or both. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 13.

Derivation:

Vernon's Ann.P.C. art. 544.

Art. 342—414. Officers, Employees, Directors—False Entries and Statements—Penalty

Any officer, director or employee of a state bank who knowingly makes a false entry upon the books or records or in any report or statement of such bank, or knowingly gives a false answer to any question propounded to him while being examined under oath by the Commissioner, Deputy Commissioner, Departmental Examiner, or any Examiner, shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or

confined in the penitentiary not more than ten (10) years, or both. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 14.

Derivation:

Vernon's Ann.P.C. arts. 545, 559a.

Art. 342—415. Officers, Directors, Employees, Stockholders—Destruction of Bank Records—Penalty

Any officer, director, employee or stockholder of a state bank who, for the purpose of concealing any fact or information from the Banking Commissioner, Deputy Commissioner, Departmental Examiner or any Examiner, or for the purpose of suppressing any evidence material to any pending or anticipated suit or legal proceeding, abstracts, removes, destroys, or conceals any book or record of such bank shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than five (5) years, or both. Destruction or disposition of any book or record of a state bank after the period which it is required to be preserved by any rule or regulation of the Banking Section under Article 13 of Chapter I¹ shall raise a rebuttable presumption that this article has not been violated. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 15.

¹ Article 342—113.

Derivation:

Vernon's Ann.P.C. art. 547c.

Art. 342—416. Officers, Employees—Certification of Check without Funds—Penalty

Any officer or employee of a state bank who certifies any check drawn upon such bank, if the drawer does not have sufficient credit in his checking account to pay such check, unless he acts in good faith with reason to believe that the credit is sufficient, shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than five (5) years, or both. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 16.

Derivation:

Vernon's Ann.P.C. art. 549.

Art. 342—417. Officers, Directors and Employees—Accepting Bonuses—Penalty

Any officer, director or employee of a state bank who demands, or directly or indirectly receives a bonus, commission or other consideration on account of the making of a loan or investment or the purchase of any asset by such bank shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than five (5) years, or both. Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 17.

Derivation:

Vernon's Ann.P.C. art. 553.

CHAPTER V—LOANS AND INVESTMENTS

Art.		Art.	
342—501.	Domicile—Furniture and Fixtures — Depreciation — Exception.	342—507.	Limit of Liability of any One Borrower — Exceptions — Penalty.
342—502.	Other Real Estate—Depreciation —Exception.	342—508.	Loan Fees Prohibited—Exception.
342—503.	Engaging in Commerce—Exception.	342—509.	Loans to and Transactions with Officers and Directors—Penalty.
342—504.	Real Estate Loans—Limitations.	342—510.	Loan of Trust Funds to Officers, Directors or Employees—Penalty.
342—505.	Building and Loan Shares—Lawful Investment.	342—511.	Same Powers as National Bank.
342—506.	Own Stock—Security—Acquisition — Disposition — Investment Certificates—Maturity.		

Art. 348—501. Domicile—Furniture and Fixtures—Depreciation—Exception

No state bank shall, without prior written consent of the Commissioner, invest an amount in excess of fifty per cent (50%) of its capital and certified surplus in a domicile (including land and building) nor an amount in excess of fifteen per cent (15%) of its capital and certified surplus in its furniture and fixtures. Such domicile shall be depreciated each year not less than two and one-half per cent (2½%) of its cost to the bank until such domicile is charged down to twenty-five per cent (25%) of its cost, and the furniture and fixtures shall be depreciated each year not less than ten per cent (10%) of their cost to the bank until said account is charged down to One Dollar (\$1), provided that the Commissioner may permit a lesser percentage to be charged off during any year. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 1.

Derivation:

Vernon's Ann.Civ.St. arts. 512, 512a.

Art. 342—502. Other Real Estate—Depreciation—Exception

No state bank shall acquire real estate, other than its domicile, except in satisfaction or partial satisfaction of indebtedness, or in the ordinary course of the collection of loans and other obligations owing the bank. No state bank shall assign an original book value to such real estate in excess of its reasonable value at the time of acquisition and such real estate shall be depreciated each year ten per cent (10%) of such original book value until charged down to twenty-five per cent (25%) of its original book value; provided that the Commissioner may permit a lesser percentage to be depreciated during any year. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 2.

Derivation:

Vernon's Ann.Civ.St. art. 514.

Art. 342—503. Engaging in Commerce—Exception

No state bank shall invest its funds in trade or commerce by buying and selling goods, wares, merchandise or chattels or by owning or operating an industrial plant except when necessary to avoid loss on a loan or investment previously made in good faith. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 3.

Derivation:

Vernon's Ann.Civ.St. art. 510.

Art. 342—504. Real Estate Loans—Limitations

No state bank shall make a loan upon security of real estate or invest its funds in obligations secured by real estate unless:

1. The security is a first lien upon such real estate;
2. The total balance owing upon the indebtedness secured by such lien does not exceed fifty per cent (50%) of the appraised value of such real estate, or, if such loan or obligation provides for uniform monthly, quarterly, semiannual or annual reductions of principal in such amounts as to retire forty per cent (40%) of said balance within five (5) years of the date of the bank's loan or investment, not to exceed sixty per cent (60%) of the appraised value of such real estate; and
3. Such loan or obligation is supported by (a) either an attorney's opinion or a mortgagee's title insurance policy; (b) evidence of payment of all taxes other than taxes for the current year; (c) a written appraisal of such real estate signed by an appraiser; and (d) if the improvements situated upon such real estate constitute an appreciable portion of the security, adequate coverage insuring the interest of the bank against loss by fire and tornado. The above limitations shall not apply to a loan or obligation insured by the Federal Housing Administration, or to security taken to prevent loss on a loan or investment previously made in good faith. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 4.

Derivation:

Vernon's Ann.Civ.St. art. 392.

Art. 342—505. Building and Loan Shares—Lawful Investment

A state bank may invest in, or lend on the security of, shares of stock insured by the Federal Savings and Loan Insurance Corporation which is issued by any building and loan association or savings and loan association domiciled in this State. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 5.

Derivation:

Vernon's Ann.Civ.St. art. 392.

Art. 342—506. Own Stock—Security—Acquisition—Disposition—Investment Certificates—Maturity

No state bank shall acquire a lien by pledge or otherwise on its shares of stock nor purchase or acquire title to such stock, except to prevent loss upon a loan or investment previously made in good faith. If a state bank acquires such lien upon its stock or acquires title to its stock under the exception provided in this article, it shall not permit such lien to continue for more than two (2) years, nor shall it hold title to such stock for more than one (1) year. Provided that the stock on which the bank has a lien plus the stock held by it as owner shall not exceed, in par value, the aggregate of all surplus accounts and undivided profits of said bank; provided, however, that any provision of this Code¹ to the contrary notwithstanding, a state bank may make loans, charge or collect in advance interest thereon at a rate not exceeding that permitted by law, together with other charges permitted by this Code, and take as collateral therefor its investment certificates, issued simultaneously with the granting of the loans or otherwise, requiring weekly, semimonthly, monthly or other regular periodic installments to be paid upon such certificates; such loans, subject to acceleration for specified causes, shall mature when the withdrawal value of the investment certificate or certificates securing the same equals the face amount of the note evidencing the loans, and shall be comparable in form and principle of operation to sinking-fund loans which building and loan associations are now authorized to make under the laws of this State. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 6.

¹ Articles 342—101 to 342—911.

Derivation:

Vernon's Ann.Civ.St. arts. 523, 524, 545.

Art. 342—507. Limit of Liability of any One Borrower—Exceptions—Penalty

No state bank shall permit any person or any corporation to become indebted or in any other way liable to it in an amount in excess of twenty-five per cent (25%) of its capital and certified surplus. The phrase "indebted or in any other way liable" shall be construed to include liability as partner or otherwise. The above limitation shall not apply to the following classes of indebtedness or liability:

1. Liability as endorser or guarantor of commercial or business paper discounted by or assigned to the bank by the actual owner thereof, who has acquired it in the ordinary course of business.

2. Indebtedness evidenced by bills of exchange or drafts drawn against actually existing values and secured by a lien upon goods in transit with shippers' order bills of lading or comparable instruments attached.

3. Indebtedness evidenced by notes or other paper secured by liens upon agricultural products, manufactured goods, or other chattels in storage in bonded warehouses or elevators with warehouse or elevator receipts attached, when the value of the security is not less than one hundred twenty-five per cent (125%) of the indebtedness and the bank's interest therein is adequately insured against loss, with insurance policies or certificates of insurance attached.

4. Deposit in a reserve depository, or a Federal Reserve Bank.

5. Indebtedness arising out of the daily transaction of the business of any clearing house association in this State.

6. Bonds and other legally created general obligations of the State of Texas or of any county, city, municipality or political subdivision thereof and indebtedness of the United States of America, the Reconstruction Finance Corporation or other instrumentality or agency of the United States Government.

7. Any portion of any indebtedness which the United States Government, the Reconstruction Finance Corporation or any other agency or instrumentality of the United States Government has unconditionally agreed to purchase or has unconditionally guaranteed as to payment of both principal and interest.

Any officer, director or employee of a state bank who knowingly violates or participates in the violation of any provision of this article shall upon conviction be fined not more than Five Thousand Dollars (\$5,000) or confined in the state penitentiary not more than five (5) years, or both. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 7.

Derivation:

Vernon's Ann.P.C. arts. 554, 555.

Art. 342—508. Loan Fees Prohibited—Exception

No bank shall charge or collect any loan fee or any other charge, by whatever name called, for the granting of a loan. Provided, however, a bank may require an applicant for a loan or discount to pay the cost of any abstract, attorney's opinion or title insurance policy, or other form of insurance, and filing or recording fees or appraisal fees. Expenses necessary or proper for the protection of the lender, and actually incurred in connection with the making of the loan may be charged, and further provided that a bank may charge any borrower the reasonable value of services rendered in connection with the making of any loan, including the drawing of notes, the taking of acknowledgments and affidavits, the preparation of financial statements, and the investigation or analysis of the financial responsibility of the borrower or any endorser, surety or co-signer, in an amount agreed upon,

but not to exceed One Dollar (\$1) for each Fifty Dollars (\$50) or fractional part thereof loaned; but the charges for such services shall not be deemed a loan fee or interest or compensation for the use of the money loaned; and the last charge next above shall not be collected unless the loan is actually made. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 8.

Derivation:

Vernon's Ann.Civ.St. art. 545.

Act authorizing injunction against usurious loans not to modify this article, see art. 4646b.

Art. 342—509. Loans to and Transactions with Officers and Directors— Penalty

Without the prior approval of a majority of the board of directors spread upon its minutes, no state bank shall: (1) permit any officer thereof to become indebted to it, directly or indirectly, in any sum whatsoever, nor any director who is not an officer thereof to become indebted to it, directly or indirectly, in a sum exceeding ten per cent (10%) of its capital and certified surplus, or (2) sell any of its assets to any of its officers or directors, or purchase any asset in which any officer or director has any interest. No director shall be qualified to vote on any resolution that relates to any loan or the purchase or sale of any asset in which transaction such director is interested. Any officer or director who knowingly participates in or permits any violation of any of the provisions of this article shall, upon conviction, be fined not more than Five Thousand Dollars (\$5,000), or confined in the State penitentiary for not more than five (5) years, or both. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 9.

Derivation:

Vernon's Ann.Civ.St. art. 526.

Vernon's Ann.P.C. art. 546.

Art. 342—510. Loan of Trust Funds to Officers, Directors or Employees —Penalty

No state bank shall directly or indirectly lend any funds or money held by it in trust to any officer, director, or employee of such bank. Any officer, director or employee borrowing or participating in or permitting the lending of trust funds in violation of this article shall upon conviction be fined not more than Five Thousand Dollars (\$5,000) or confined in the State penitentiary not more than five (5) years, or both. Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 10.

Derivation:

Vernon's Ann.P.C. arts. 546a, 546b.

Art. 342—511. Same Powers as National Bank

Any provision of this Code¹ to the contrary notwithstanding, any state bank may make any loan or investment which such bank could make were it operating as a national bank, and the making of such loan or investment shall not constitute a violation of any penal provision of the statutes of the State. Acts 1943, 48th Leg., p. 148, c. 97, subch. V, art. 11.

¹ Articles 342—101 to 342—911.

Derivation:

Vernon's Ann.Civ.St. art. 525.

**CHAPTER VI—SURPLUS, DIVIDENDS, LIABILITIES, UNINVESTED
TRUST FUNDS, PREFERENCES, RESERVES, DEBENTURES
AND WITHDRAWALS**

Art.		Art.
342—601.	Surplus—Certified Surplus—Mandatory Transfers.	342—605. Preferences.
342—602.	Liability Limit—Exceptions.	342—606. Cash Reserve—Reserve Depositories—Amount Carried.
342—603.	Pledge of Assets—Securing Depositors.	342—607. Capital Notes or Debentures—Capital Defined.
342—604.	Uninvested Trust Funds—Segregation.	342—608. Limitation Upon Withdrawals.

Art. 342—601. Surplus—Certified Surplus—Mandatory Transfers

Each state bank shall maintain an account to be known as "surplus," any part of which account may, from time to time, be certified, which portion of the surplus shall be known as "certified surplus," before declaring any dividend each state bank shall transfer to "certified surplus" an amount not less than ten per cent (10%) of the net profits of such bank earned since the last dividend was declared; provided, however, that this article shall not require a transfer to certified surplus of a sum which would increase the certified surplus to more than the capital of the bank. Except to absorb losses in excess of undivided profits and uncertified surplus, such certified surplus shall not be reduced without the prior written consent of the Commissioner. The Board of Directors shall, in connection with each transfer to or reduction in the certified surplus, promptly file with the Commissioner its certificate reflecting such transfer or reduction. The certified surplus accounts maintained by state banks on the effective date of this Act,¹ shall be deemed "certified surplus" within the purview of this article. Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 1.

¹ Effective 90 days after May 11, 1943, date of adjournment.

Derivation:

Vernon's Ann.Civ.St. arts. 507, 509.

Art. 342—602. Liability Limit—Exceptions

No state bank shall without the prior written consent of the Commissioner be indebted or liable for an amount in excess of its capital and certified surplus except on account of the following:

1. Money on deposit with or collected by it.
2. Bills of exchange, checks or drafts drawn against money actually on deposit to the credit of the bank or due to said bank.
3. Liability to stockholders on account of the capital stock, surplus and undivided profits.
4. Liabilities arising under or pursuant to the provisions of the Federal Deposit Insurance Corporation Act,¹ the Federal Reserve Act,² the Reconstruction Finance Corporation Act,³ the Federal Agricultural Credit Act of 1923,⁴ or pursuant to any or all amendments to any or all of said acts.
5. Indebtedness evidenced by investment certificates or certificates of indebtedness.
6. Liability on endorsement of notes, bills of exchange or other evidences of indebtedness actually owned by said bank and sold or endorsed with or without recourse, provided said sale or endorsement shall have been previously approved by the board of directors of said bank. Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 2.

¹ 12 U.S.C.A. § 264.

² 12 U.S.C.A. § 221 et seq.

³ 15 U.S.C.A. §§ 601-617.

⁴ 12 U.S.C.A. §§ 1151-1322.

Derivation:

Vernon's Ann.Civ.St. arts. 515, 547.

Art. 342—603. Pledge of Assets—Securing Depositors

No state bank shall pledge, or create any lien upon, any asset or in any way secure the repayment of any deposit except when specifically authorized to do so by law, except that it may pledge its assets to secure a deposit of or by the United States Government, the State of Texas, or any agency or instrumentality of either. This article does not prohibit the pledge of assets to secure the repayment of money borrowed. Any act, deed, conveyance, pledge or contract in violation of this article shall be void. Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 3.

Derivation:

Vernon's Ann.Civ.St. arts. 517, 517a, 518, 519.

Art. 342—604. Uninvested Trust Funds—Segregation

Unless the trust instrument provides otherwise, funds received in trust by a state bank awaiting investment shall be carried in a separate account and shall not be used by the bank in the conduct of its business, unless it shall first set aside in the trust department United States government bonds or other securities eligible under the laws of this State for the investment of funds by guardians or trustees of a market value equivalent to the amount so used. In event of the liquidation of such bank the owners of the funds held in trust for investment shall have a lien upon the bonds or other securities so set apart. Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 4.

Derivation:

Vernon's Ann.Civ.St. art. 396.

Art. 342—605. Preferences

No state bank shall transfer, assign, convey, mortgage, or create any lien upon any asset belonging to it or make any payment in money or otherwise upon any indebtedness after the commission of any act of insolvency or in contemplation thereof, or while such bank is insolvent, with a view to prevent the application of its assets in accordance with the provisions of this Code,¹ and any transfer, assignment, conveyance, mortgage, payment or other act in violation of this article shall be void. Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 5.

¹ Articles 342—101 to 342—911.

Derivation:

Vernon's Ann.Civ.St. art 532.

Art. 342—606. Cash Reserve—Reserve Depositories—Amount Carried

Every state bank having a capital stock of less than Twenty-five Thousand Dollars (\$25,000) capital shall at all times maintain a cash reserve of not less than twenty per cent (20%) of the aggregate amount of its demand deposits and five per cent (5%) of all other deposits, and every state bank having a capital of Twenty-five Thousand Dollars (\$25,000) or more shall maintain a cash reserve of not less than fifteen per cent (15%) of its aggregate demand deposits and five per cent (5%) of all other deposits, provided that any member of the Federal Reserve System which maintains the reserves required by that System shall not be deemed to have violated the provisions of this article. Such cash reserve shall be kept in the vaults of the bank or on deposit with Federal Reserve banks or banks incorporated by any state or the United States with not less than Fifty Thousand Dollars (\$50,000) capital approved as reserve depositories by the Commissioner. No state bank shall deposit an amount in excess of twenty per cent (20%) of its capital, certified surplus and

deposits in any one reserve depository. Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 6.

Derivation:

Vernon's Ann.Civ.St. arts. 521, 522.

Art. 342—607. Capital Notes or Debentures—Capital Defined

With the prior written approval of the Commissioner any state bank may, at any time, through action of its board of directors and without requiring any action of its stockholders, issue and sell its capital notes or debentures, which shall be subordinate and subject to the claims of depositors and may be subordinated and subjected to the claims of other creditors or the holders of investment certificates.

The term "capital" as used in this article relating to solvency of state banks shall be construed to embrace the amount of outstanding capital notes and debentures legally issued by any state bank and sold by it to the Reconstruction Finance Corporation or any other corporation or individual. The capital stock of any such bank may be deemed to be unimpaired when the amount of capital notes and debentures as represented by cash or sound assets exceeds the impairment as found by the Commissioner. Before any such capital notes or debentures are retired or paid by the bank, any existing deficiency of its capital (disregarding the notes or debentures to be retired) must be paid in cash, to the end that the sound capital assets shall at least equal the capital stock of the bank. Provided, in the event the net profits are not sufficient to meet the interest and retirement payments on the capital notes or debentures issued prior to the effective date of this Act,¹ the Commissioner may require the bank's stockholders to pay into the bank in cash an amount sufficient to meet the deficiency. Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of such bank, and shall not be held liable for assessments to restore impairment in the capital of such bank. Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 7.

¹ Effective 90 days after May 11, 1943, date of adjournment.

Derivation:

Vernon's Ann.Civ.St. art. 501a.

Art. 342—608. Limitation Upon Withdrawals

Upon the request of any state bank which is suffering from or threatened with unusual and excessive withdrawals due to financial conditions, panic or crisis, the Commissioner may, if he deems such action necessary in order to prevent unnecessary loss to or preference among the depositors and creditors of such bank, and to preserve the financial structure of the bank and its usefulness to the community, limit the right of withdrawal by or payment to depositors and creditors, and other persons to whom the bank is liable, provided, however, that such limitations shall be uniform in their application to each class of liability, and shall not defer any person in his right to full payment or withdrawal for more than ten (10) days. Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 8.

Derivation:

Vernon's Ann.Civ.St. art. 540a.

CHAPTER VII—DEFINITIONS, COLLECTIONS, DEPOSITORY CONTRACTS

<p>Art. 342—701. Definitions.</p> <p>342—702. Collections—Relation of Agency— —Conditional Credit.</p> <p>342—703. Collections—Scope of Agency— Liability of Agents.</p> <p>342—704. Collections — Payment — Refusal— Dishonor.</p> <p>342—705. Collections—Final Payment— Transmission.</p> <p>342—706. Collections — Proceeds — Preference in Insolvency.</p>	<p>Art. 342—707. Depository Contract—Limitation of Actions.</p> <p>342—708. Deposits—Discontinuance or Re- duction of Interest.</p> <p>342—709. Adverse Claims to Deposits.</p> <p>342—710. Joint Deposits—Minors, Married Women—Trustees.</p> <p>342—711. Forged, Unauthorized, Raised and Altered Items.</p> <p>342—712. Items—Payment After Hours— Holidays—Stop Payment.</p>
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Art. 342—701. Definitions

As used in this chapter¹ the following terms, unless otherwise clearly indicated by the context, have the meanings specified below:

(a) The term "bank" includes any person, firm or corporation engaged in the business of receiving and paying deposits. To the extent that the Legislature has authority to legislate relative to such banks the term includes national banks and banks outside this State.

(b) The term "drawee bank" means the bank against which an item is drawn and by which an item is payable, including banks issuing cashiers' checks, or accepting drafts.

(c) The term "owner of item" shall mean the person entitled to the proceeds of the item.

(d) The term "item" means a check, note or other negotiable or non-negotiable instrument providing for the payment of money.

(e) The term "unconditional credit" shall be construed to mean unconditional and irrevocable credit in a bank or upon an obligation of the bank or person receiving such credit. Provided, however, in event of the failure of a bank which is a member of a clearing house association, checks, drafts and other conditional credits given in connection with clearing house settlements shall be deemed unconditional credits to the extent necessary to pay those items involved in the settlement which the failing bank was, at the time of presentment, authorized or obligated to pay. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 1.

¹ Articles 342—701 to 342—712.

Art. 342—702. Collections—Relation of Agency—Conditional Credit

Except when otherwise provided by agreement, and except as to holders of negotiable instruments for value without notice, when an item is deposited with or received by a bank, the receiving bank (which will be hereafter referred to as the "original agent") and each bank, other than the drawee, to which such item is forwarded in the course of collection (which banks will hereafter be referred to as "subagents") shall be deemed the agent of the owner of the item. Such relation of agency shall exist although the original agent credits the item to the account of the owner and permits the owner to check against the credit so created, and such credit shall be conditional until the original agent has received the proceeds of the item in cash or, when authorized or accepted by it, in unconditional credit. Any withdrawal from such account during the process of collection shall first be charged to that portion of the account representing unconditional credit, and any withdrawal in excess of such unconditional credit shall be deemed an extension of credit to the own-

er of the item and secured by a lien upon such item and the proceeds thereof. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 2.

Derivation:

Vernon's Ann.Civ.St. art. 370b.

Art. 342—703. Collections—Scope of Agency—Liability of Agents

The original agent and each subagent, in the course of the collection of an item, shall, as agents of the owner of the item, be authorized:

1. To effect collection by or through: (a) forwarding the item to the drawee, if the drawee is a bank; or (b) forwarding the item to another bank for collection, which bank upon receiving the item shall become a subagent within the purview of this chapter; or (c) presenting the item across the counter of the drawee bank; or (d) presenting the item through any clearing house, or other established and recognized procedure or banking custom.

2. To receive the check or draft of the drawee, if a bank, or the check or draft of any other bank, as a step in the process of payment of the item.

3. To receive the check or draft of any subagent or of any other bank as a step in the process of transmitting the proceeds of the item from one agent to another.

4. To transmit an item or a remittance by mail, express or by any other common carrier in accordance with established banking custom.

5. To give reasonable instructions not in conflict with law or established banking customs and procedure, relative to the method of collection, payment and transmittal of the proceeds. The original agent and each subagent shall be liable for damages proximately caused by its own negligence, wrongful act, or breach of contract in connection with the collection of an item, in a sum not exceeding the amount of such item, but shall not be liable or responsible for the acts or omissions of any other agent or person or for the loss or destruction of any item or any remittance in the mail or while it is in the hands of any other common carrier or person. Further provided that no agent or subagent shall be deemed guilty of unreasonable delay if it forwards an item or remittance during the day on which it is received or during business hours of the following day. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 3.

Art. 342—704. Collections—Payment—Refusal—Dishonor

Except where otherwise provided in this Code, or by express agreement of the parties, items presented to a drawee bank shall be received by it, subject to final adjustments and all clearing house settlements, checks, drafts, credits, advances of money, charges or entries to accounts, (including sight posting), shall be conditional and subject to revocation during the day on which the item is presented (or in case of a time item, the due date), or within twenty-four (24) hours after presentment, exclusive of Sundays and holidays, if it is finally determined that the drawee bank was not at the time of presentment (or in case of a time item, the due date) authorized or obligated to pay the item, and if the drawee bank shall within that time refuse payment and return the item, or undertake to give notice in the manner hereinafter prescribed:

1. If the item is presented across the counter for payment in cash or for deposit in the drawee bank, the drawee bank shall exercise reasonable diligence within the time above prescribed to give notice, by mail or otherwise, to the bank or person presenting the item that it has refused payment and that it holds the item subject to its or his order.

2. If the item is presented through a clearing house, the drawee bank shall, within the time prescribed, return the item to the clearing house presenting it.

3. If the item is presented by mail, the drawee bank shall within the time above prescribed deposit the item in the mail properly stamped and addressed to the bank or person presenting the same. The actual receipt of the notice provided under Section 1 above by the bank or person presenting the item, or the actual receipt of the returned item by the person, bank or clearing house, as provided in Sections 2 and 3 above, shall constitute dishonor within the purview of Article 5938 of the Revised Civil Statutes of Texas. If the drawee bank in refusing payment of any item fails to comply with the provisions of this article within the time above prescribed it shall, at the election of the owner of the item, be deemed to have accepted the item, and shall be liable for the amount thereof. If an item is presented by a bank as agent or subagent of owner, such bank may, in the absence of definite instructions from the owner, exercise the election herein provided for. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 4.

Art. 342—705. Collections—Final Payment—Transmission

An item shall be deemed paid when the bank or person presenting the same has received unconditional payment in cash, or, when authorized or accepted by him or it, in unconditional credit. The proceeds of an item shall be deemed transmitted from one agent to another when the receiving agent has received the proceeds in cash, or, when authorized or accepted by it, in unconditional credit. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 5.

Art. 342—706. Collections—Proceeds—Preference in Insolvency

If any subagent, having received payment of any item or transmittal of the proceeds from another subagent, fails without transmitting the proceeds to its preceding agent, or if the original agent having received payment or transmittal of the proceeds from a subagent, fails while the relation of the agency exists between it and the former owner of the item, such former owner shall have a preferred claim against the assets of the failed bank whether or not such assets were augmented or increased by the proceeds of the item. Provided that if an item is deposited with the original agent for collection and credit, the relation of agency shall cease when such original agent has received payment of the item or transmittal of the proceeds thereof, and the relation of debtor and creditor will arise between such agent and the former owner of the item. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 6.

Derivation:

Vernon's Ann.Civ.St. art. 375b.

Art. 342—707. Depository Contract—Limitation of Actions

The contract of deposit between a bank and a depositor, whether evidenced by deposit tickets or otherwise shall be deemed a contract in writing within the purview of Article 5527 of the Revised Civil Statutes of Texas. The cause of action on any such depository contract, other than a time deposit, shall not accrue until the bank has denied liability and given the depositor notice thereof. Provided that the delivery to the depositor of a statement of his account or pass book reflecting the balance, or the mailing of a statement of such account (with or without cancelled items) to the depositor at his address as reflected by the books of the bank, shall constitute a denial of any liability on the part of the bank in excess of the balance reflected by such statement or pass book, and notice thereof to the depositor, and, to the extent of any excess over the balance reflected shall accrue the cause of action. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 7.

Art. 342—708. Deposits—Discontinuance or Reduction of Interest

Any bank heretofore or hereafter contracting to pay interest on any deposit or investment certificate without a definite maturity date may reduce the rate of, or discontinue its liability for, interest by posting prior notice thereof for at least thirty (30) days in the lobby of its banking house. This article shall not affect any contractual provision relative to the reduction of the rate of, or the discontinuing of liability for, interest. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 8.

Art. 342—709. Adverse Claims to Deposits

No bank shall be required to recognize the claim of any third party to any deposit, or withhold payment of any deposit to the depositor or to his order, unless and until the bank is served with citation or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by such third party for the purpose of recovering or establishing an interest in such deposit. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 9.

Art. 342—710. Joint Deposits—Minors, Married Women—Trustees

A bank may pay a present or future deposit, payable to or on the order of (a) any one of two or more persons, or (b) a minor, married woman, or other person under disability, or in form payable to or on the order of one person, for the benefit of or in trust for another, without the terms of the trust being disclosed to the bank in writing, to any one of such joint depositors (before or after the death of the other joint depositor or depositors), or to such minor, married woman, or other person under disability, or, on the death or disability of the trustee, to the beneficiary of such trust. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 10.

Derivation:

Vernon's Ann.Civ.St. art. 409, 410, 541d.

Art. 342—711. Forged, Unauthorized, Raised and Altered Items

A bank may notify a depositor by mail at his address as reflected by the records of the bank to call for cancelled items charged to his account, or may mail such cancelled items to the depositor at such address. No depositor shall be permitted to dispute any charge to his account on the ground that the same is based upon a forged, unauthorized, raised or altered item unless, within one (1) year from the time check was paid, he shall notify the bank in writing that the item in question is forged, unauthorized, raised, or altered. Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 11.

Art. 342—712. Items—Payment After Hours—Holidays—Stop Payment

The payment of any item on or subsequent to the day on which it purports to be payable, whether such payment is made during or after regular business hours or on a legal holiday, shall be valid. The person primarily obligated to pay an item may at any time prior to presentment thereof for payment instruct the bank by or through which the same is payable not to pay such item, and shall each sixty (60) days thereafter renew such instructions. No bank shall be legally obligated to regard such instructions or renewals unless the same are in writing, dated, signed, and describe the item with certainty. After receipt of stop payment instructions in the form above provided prior to presentment for payment of the item, a bank shall exercise reasonable diligence not to pay the same, and if it thereafter negligently pays the item it shall be liable for the damages sustained in a sum not exceeding the amount of such item.

Provided that payment of the item more than sixty (60) days after the filing of the stop payment instructions or the last renewal thereof shall not be deemed negligence. Acts 1943, 48th Leg., p. 154, c. 97, subch. VII, art. 12.

CHAPTER VIII—LIQUIDATION

Art.		Art.	
342—801.	Exclusive Methods of Liquidation.	342—808.	Notice to Depositors and Creditors.
342—802.	Voluntary Liquidation of Solvent State Bank—Cancellation of Charter—Resumption of Business Prohibited.	342—809.	Presentation of Claim.
342—803.	Closing State Banks—By Commissioner—By Directors.	342—810.	Approval—Classification and Rejection.
342—804.	Posting of Notice—Creation of Liens, Transfers and Payment After Closing.	342—811.	Appeal by Claimant.
342—805.	Contest of Liquidation.	342—812.	Powers of Commissioner—Sale of Assets—Compromises and Agreements.
342—806.	Inventory of Assets—Custodia Legis—Jurisdiction.	342—813.	Expenses of Administration.
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		342—815.	Final Dividend—Report—Disposition of Assets—Discharge.
		342—816.	Deposit of Funds by Commissioner in Banks—Preferred Payment.

Art. 342—801. Exclusive Methods of Liquidation

The methods of liquidation of state banks as provided for in this Code¹ shall be exclusive and no state bank shall make an assignment for the benefit of creditors, nor shall any court appoint a receiver for any state bank. Provided, however, nothing in this article shall prohibit the liquidation of a state bank by The Federal Deposit Insurance Corporation as provided in Article 489b, Acts 1935, Forty-fourth Legislature of Texas, Page 459, Chapter 183. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 1.

¹ Articles 342—101 to 342—911.

Derivation:

Vernon's Ann.Civ.St. art. 531.

Art. 342—802. Voluntary Liquidation of Solvent State Bank—Cancellation of Charter—Resumption of Business Prohibited

A solvent state bank may be closed and liquidated upon the written consent or vote of the owners of record of two thirds of its capital, which consent, or the resolution adopted by the stockholders, shall specify the date when such bank is to be closed and shall designate one or more individuals to act as the liquidating agent, who shall conduct the liquidation under the supervision of the board of directors, after giving suitable bond as prescribed by said board and approved by the Commissioner. Prior to the closing of such state bank, the directors shall file with the Commissioner a transcript of the proceedings authorizing the closing of the bank. Notice to its depositors and creditors to present their claims shall be published once a week for thirteen (13) weeks, beginning within ten (10) days after the closing of the bank, in a newspaper of general circulation published in the county of the bank's domicile, or if no such newspaper is published in said county, in an adjacent county. Upon presentment of lawful claims, the bank shall pay its depositors and creditors, provided that such payment may be effected through a disbursing agent as authorized under Article 10 of Chapter 3 of this Code.¹ The liquidating agent shall make a written report to the stockholders at each annual meeting, a copy of which, signed and sworn to by the liquidating agent, shall be filed with the Commissioner. The stockholders at any

regular or special meeting may remove the liquidating agent and name a successor. The Commissioner may from time to time examine the liquidating bank and may, if the depositors and creditors are not paid upon presentment of their lawful claims, or if, prior to the payment of all depositors and creditors, he finds any condition which would authorize the closing of the bank were it not in voluntary liquidation, take possession of the assets and liquidate the same in the manner herein provided for the liquidation of insolvent state banks.

Upon the expiration of six (6) months from the first publication of notice as above provided, the bank shall file with the Commissioner an affidavit sworn to by a majority of the qualified directors stating that all depositors and creditors who have presented their claims have been paid the amounts due them, and listing those depositors and creditors who have not presented their claims, giving their addresses as shown by the books of the bank and the amounts respectively due each. Such affidavit shall be accompanied by a publisher's certificate showing publication of notice as above provided, and by a sum equal to the aggregate amount due the non-claiming depositors and creditors. The Commissioner shall hold such money for the benefit of said depositors and creditors in the manner provided in Article 15 of this Chapter.²

At any time after the filing of such affidavit, the board of directors may distribute the remaining assets among the shareholders in proportion to their ownership of stock of the bank and shall thereafter file with the Commissioner an affidavit sworn to by a majority of the qualified directors showing such distribution. The filing of such affidavit and the approval thereof by the Commissioner shall have the effect of cancelling the charter of the bank without the necessity of any judicial action.

No state bank which has been closed pursuant to the provisions of this article shall resume business or reopen without the prior written consent of the Commissioner. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 2.

¹ Article 342—310.

² Article 342—815.

Derivation:

Vernon's Ann.Civ.St. arts. 456, 539, 540.

Art. 342—803. Closing State Banks—By Commissioner—By Directors

Whenever the Commissioner, through examination, finds that the interests of depositors and creditors of a state bank are seriously jeopardized through its insolvency or imminent insolvency and that it is to the best interest of such depositors and creditors that the bank be closed and its assets liquidated, he may close and liquidate the bank, unless its board of directors close the bank and place it in his hands for liquidation. Further, if the Commissioner, through examination, finds that the capital of a state bank is seriously impaired, or that it is conducting its affairs in an unsafe, unauthorized or unlawful manner, or that it refuses to submit to examination, or is hindering examination, he shall call together the directors of such bank and lay before them the facts and require such bank to make good the matter or matters complained of. If the board of directors of such bank fails or refuses to file with the Commissioner, within ten (10) days from the date of the Commissioner's official notice, satisfactory evidence that the matter or matters complained of have been cured to the satisfaction of the Commissioner, then in such event the Commissioner shall certify such facts to the State Banking Board, whereupon the State Banking Board shall notify such directors of a hearing to be held in Austin, Texas, not less than five (5) nor more

than ten (10) days from the date such notice is mailed. Said directors may appear at such hearing and be heard and after said hearing said State Banking Board may order such bank closed and its affairs liquidated as provided in this Code,¹ or said State Banking Board may enter such other order as said State Banking Board may deem appropriate. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 3.

¹ Articles 342—101 to 342—911.

Derivation:

Vernon's Ann.Civ.St. arts. 364—369, 450.

Art. 342—804. Posting of Notice—Creation of Liens, Transfers and Payment after Closing

Immediately after the closing of any state bank by its directors or by the Commissioner under the provisions of Article 3 of this chapter,¹ the Commissioner shall place an appropriate sign to that effect at the main entrance of the bank, and thereafter no judgment lien, attachment lien or other voluntary lien shall attach to any asset of said bank, nor shall the directors, officers or agents of such bank thereafter have authority to act for or on behalf of said bank or to convey, transfer, assign, pledge, mortgage or encumber any asset thereof, and any attempt by any officer, director or agent to transfer, assign, convey, mortgage or pledge any asset of the bank or to create any lien thereon or in any manner to prefer any depositor or creditor of the bank after the posting of such notice or in contemplation thereof shall be void. The Commissioner immediately after posting the notice at the entrance of such bank shall advise its correspondent banks of its closing. No correspondent shall pay any item drawn on the account of the closed bank which is presented for payment after the receipt of such advice, unless the same has been previously certified. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 4.

¹ Article 342—803.

Derivation:

Vernon's Ann.Civ.St. art. 451.

Art. 342—805. Contest of Liquidation

At any time within five (5) days after the Commissioner has closed any state bank under the provisions of Article 3 of this chapter,¹ such bank, acting through its directors, may sue in the district court of the bank's domicile to enjoin the Commissioner from liquidating such bank, and the court, or the judge thereof if in vacation, may, without notice or hearing, restrain the Commissioner from liquidating the assets of such bank pending hearing on the merits, and shall, in that event instruct the Commissioner to hold the assets of such bank in his possession pending final disposition of such suit. The Commissioner shall thereupon refrain from liquidating such assets, provided, however, the Commissioner may, with the approval of the district judge, take such action as may be necessary or proper to prevent loss or depreciation in the value of the assets. The court shall, as soon as possible, hear the suit upon its merits and shall enter a judgment (1) enjoining the Commissioner from liquidating the assets of such bank, or (2) refusing such injunction. Appeal shall lie from such judgment as in other civil cases, but the Commissioner, irrespective of the character of judgment entered by the trial court or any supersedeas bond filed, shall retain possession of the assets of such bank pending final disposition on appeal. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 5.

¹ Article 342—803.

Art. 342—806. Inventory of Assets—Custodia Legis—Jurisdiction

Promptly after the Commissioner has acquired possession of the assets of a state bank for liquidation, he shall prepare and file in the office of the district clerk of the county of the bank's domicile an inventory of such assets, and the clerk shall assign a cause number to the proceedings so instituted. The assets of the bank shall be deemed to be in the custody of the court in which such proceedings are pending and all suits and orders provided for under this chapter¹ shall be deemed to be in the nature of interventions or orders in said proceedings, of which suits and orders said court shall have exclusive jurisdiction. Provided, however, that during vacation of such court, the judge thereof shall be authorized to enter any of such orders and to conduct any hearing incident thereto. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 6.

¹ Articles 342—801 to 342—816.

Derivation:

Vernon's Ann.Civ.St. art. 460.

Art. 342—807. Resumption of Business—Reorganization

No state bank which has been closed under the provisions of Article 3 of this Chapter¹ shall be reopened unless the contest provided for under Article 5 of this chapter² is finally determined adversely to the Commissioner, or unless the Commissioner, acting under order of the district court, shall authorize such reopening by a certificate under the seal of his office. The Commissioner may in such certificate place such limitations upon the right of withdrawal by, or payment of, depositors and creditors of such bank as he may deem necessary to the protection of the depositors and creditors as a whole. Provided, however, that such limitation shall be applicable alike to all unsecured depositors and creditors and shall not defer their right of full withdrawal or payment for more than eighteen (18) months from the date of the reopening of such bank, nor defer any secured depositor or creditor to any extent without his written consent.

The limitations upon the right of withdrawal or payment set out in the certificate of the Commissioner shall when the bank is reopened be binding upon all unsecured depositors and creditors and all secured depositors and creditors who have assented thereto in writing. The State of Texas, or any county, city, common or independent school district or any other political subdivision of this State, as depositor or creditor, may by the proper administrative official or officials, board, or tribunal agree to such limitations, if, in his or their opinion such agreement is to the best interest of all concerned. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 7.

¹ Article 342—803.

² Article 342—805.

Derivation:

Vernon's Ann.Civ.St. art. 452.

Art. 342—808. Notice to Depositors and Creditors

Upon final determination that any state bank is to be liquidated by the Commissioner, he shall publish notice for the time and in the manner prescribed in Article 2 of this Chapter,¹ provided, however, that the Commissioner's notice shall require all depositors and creditors to file written proofs of claim with the Commissioner at his office in Austin, Texas, and the Commissioner shall within thirty (30) days after the first publication of such notice mail a similar notice to each depositor

or creditor shown upon the books of the bank at his address as reflected thereby. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 8.

¹ Article 342—802.

Derivation:

Vernon's Ann.Civ.St. art. 456.

Art. 342—809. Presentation of Claim

Each depositor, creditor or other person asserting any claim of any character against a state bank in the process of liquidation by the Commissioner, shall within eighteen (18) months of the date of the first publication of notice, as provided for in the preceding article,¹ present his claim in writing to the Commissioner at his office in Austin, Texas. Such claims shall state the facts upon which the same are based; shall set out any right of priority of payment or other specific rights asserted by the claimant and shall be signed and sworn to by the claimant. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 9.

¹ Article 342—808.

Art. 342—810. Approval—Classification and Rejection

Within three (3) months after receipt of any claim against a state bank which is in his hands for liquidation, the Commissioner shall, unless such time is extended by written agreement with the claimant, approve or reject such claim in whole or in part. If he approves such claim, or any part thereof, he shall classify the same and enter such claim and his action thereon in a claim register. If the Commissioner rejects any claim in whole or in part, or if he denies any right of priority of payment or any other right asserted by the claimant, he shall notify the claimant of his action by registered mail. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 10.

Derivation:

Vernon's Ann.Civ.St. art. 459.

Art. 342—811. Appeal by Claimant

Any claimant may, within three (3) months from the date of mailing of notice by the Commissioner as provided by the preceding Article,¹ sue upon such claim in the district court; otherwise the action of the Commissioner shall be final and not subject to review. The trial of such suit shall be de novo as if originally filed in said court and subject to the rules of procedure and appeal applicable to civil cases. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 11.

¹ Article 342—810.

Derivation:

Vernon's Ann.Civ.St. art. 459.

Art. 342—812. Powers of Commissioner—Sale of Assets, Compromises and Agreements

Pursuant to the order of the district court, entered with or without hearing, the Commissioner may sell any of the assets of a state bank in his hands for liquidation; may borrow money and pledge the whole or any part of such assets of such bank to secure the debt created; may compromise or compound any bad or doubtful claim held by or asserted against such bank; and may enter into any other kind or character of contract or agreement on behalf of such bank which he deems necessary or proper to the management, conservation or liquidation of its assets and all parties interested in the affairs of such bank shall be bound and precluded by the action of the Commissioner. Provided that said court, if it deems it advantageous or proper, may require notice and

hearing before entering any order, and in that event shall, by order, fix the time and place of the hearing and prescribe the character of notice to be given thereof. Further provided that said court, in its discretion, and subject to such limitations as it may prescribe, may by general order authorize the Commissioner (a) to compound or compromise any claim or debt involving not more than One Thousand Dollars (\$1,000) held by or asserted against the bank, and (b) to sell all chattels belonging to the bank. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 12.

Derivation:

Vernon's Ann.Civ.St. art. 375c.

Art. 342—813. Expenses of Administration

The expense of liquidation of state banks shall be paid out of the assets thereof, subject to review and approval by order of the district court. The Commissioner is authorized to employ such special agents, attorneys and other assistants as may be necessary or proper to the administration of the affairs of such banks, and shall, if he deems it to be in the interest of economy and efficiency, establish a central office unit to assist in the supervision of the liquidation of said banks. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 13.

Derivation:

Vernon's Ann.Civ.St. arts. 349, 462.

Art. 342—814. Dividends—Delayed Claims

The Commissioner may from time to time in the course of the liquidation of a state bank, upon order of the district court, pay dividends to those depositors and creditors who have established their claims, provided that no final dividend shall be paid within eighteen (18) months of the date of the first publication of notice as prescribed in Article 8 of this Chapter.¹ All claims filed after the declaration and payment of any dividend and prior to the expiration of such eighteen (18) months shall, if approved, participate in dividends previously paid before any additional dividend is declared. Claims which are not presented within said eighteen (18) months period shall not participate in any dividend or distribution of assets until after full payment of all approved claims presented during such period. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 14.

¹ Article 342—808.

Derivation:

Vernon's Ann.Civ.St. arts. 453, 454, 457, 463.

Art. 342—815. Final Dividend—Report—Disposition of Assets—Discharge

At any time after the expiration of eighteen (18) months from the first publication of notice as specified in Article 8 of this Chapter,¹ after the Commissioner has liquidated all of the assets of a bank capable of liquidation or has realized sufficient funds from such liquidation to pay the costs thereof, to pay all claims which have been filed and established, and leave funds available to provide for the payment of all non-claiming depositors and creditors, the Commissioner shall, acting under order of the district court, declare and pay a final dividend. The Commissioner shall deposit in one or more state banks all funds hereafter available for the benefit of non-claiming depositors and creditors. All unclaimed dividends and all funds hereafter available for non-claiming depositors and creditors, together with all funds held pursuant to the provisions of Article 540 of the Revised Civil Statutes of Texas, (which latter funds shall be transmitted by the State Treasurer to the

Commissioner, together with a list of the depositors and creditors for whose benefit the same is held), shall be deposited by the Commissioner in one or more State banks for the benefit of the depositors and creditors entitled thereto. The Commissioner shall pay any depositor or creditor, upon his demand, any amount so held for his benefit. In event the Commissioner is in doubt as to the identity of any claimant or his right to the funds thus held, he shall reject the claim and notify the claimant by registered mail. The claimant shall, within three (3) months after mailing of such notice by the Commissioner, institute suit against the Commissioner in the district court to recover such funds, which suit shall be in the nature of an action in rem governed by the rules of procedure and appeal applicable to civil cases and the judgment therein shall be binding upon all persons interested in such funds. If such suit is not filed within the time prescribed, the rejection of the Commissioner shall be final. After paying a final dividend as above provided and doing each and every act necessary or proper in connection with the liquidation of the assets of such bank for the benefit of the depositors and creditors, the Commissioner shall file in the district court his final report of such liquidation, and said court shall by order fix and designate a time and place when and where such report shall be heard, and direct the Commissioner to give such notice thereof as the court may deem proper. If said court, after such notice and hearing shall find that the affairs of said bank have been administered properly and in accordance with law it shall approve such report, and the order of approval shall have the force and effect of forfeiting and cancelling the corporate charter of such bank, vesting title to the remaining assets, if any, in the stockholders of said bank, and releasing and discharging the Commissioner from any further duty, obligation or liability in connection with the administration of the affairs of such bank, and thereafter no person shall have or maintain any claim, suit or action against the Commissioner individually or in his capacity as statutory liquidator of such bank other than suits to recover unclaimed deposits as above provided. The district court may, in such order, direct the Commissioner as to the disposition of the books, records and remaining assets, if any, of such bank and may designate a trustee to whom the Commissioner shall deliver physical possession of the same, and who, under the supervision of said court shall administer or liquidate such assets for the benefit of the former stockholders of such bank. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 15.

¹ Article 342—808.

Derivation:

Vernon's Ann.Civ.St. arts. 369a, 463, 465,
467-469, 471-474.

Art. 342—816. Deposit of Funds by Commissioner in Banks—Preferred Payment

The Commissioner shall, except where otherwise provided by law, deposit all funds coming into his hands in one or more state banks, and such funds so deposited by the Commissioner pursuant to the provisions of law shall constitute preferred claims against the assets of such bank in event of liquidation. Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 816.

Derivation:

Vernon's Ann.Civ.St. art. 461.

CHAPTER IX—GENERAL PROVISIONS

Art.	Art.
342—901. State Instrumentality—Depositary—Fiscal Agent.	342—906. Safety Deposit Boxes—Access by Joint Lessees—Opening—Lien—Sale of Content.
342—902. Unauthorized Banking—Advertising—Private Banks—Penalty.	342—907. Slander or Libel of Banks—Penalty.
342—903. Branch Banking Prohibited.	342—908. Application of Code to National Banks.
342—904. State Banks—Federal Reserve Membership.	342—909. Severability of Provisions.
342—905. Savings Department—Segregation of Assets—Discontinuance.	342—910. Moratorium — Banks — Building and Loan Associations—Other Financial Institutions.
	342—911. Repealer of Conflicting Laws.

Art. 342—901. State Instrumentality—Depositary—Fiscal Agent

All state banks are hereby declared to be charged with the public interest and shall be under state control and be subject to such legislation as may be enacted for the regulation of such banking institutions. Such state banks shall be deemed instrumentalities and agencies of the state, and may, when lawfully designated thereto, act as depositaries for the public funds of this State or any county, city, common or independent school district or any other political subdivision of this State, in accordance with the laws of this State governing depositaries of public funds now or hereafter existing; and such state banks shall act as fiscal agents for the United States, the State of Texas, or any county, city, common or independent school district or any other political subdivision of this State on request and upon reasonable compensation. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 1.

Derivation:

Vernon's Ann.Civ.St. art. 492.

Art. 342—902. Unauthorized Banking—Advertising—Private Banks—Penalty

It shall be unlawful for any person, corporation, firm, partnership, association or common law trust:

(1) To conduct a banking or trust business or to hold out to the public that it is conducting a banking or trust business; or

(2) To use the term "bank," "bank and trust," "savings bank," "trust" or any similar term in its name, stationery or advertising. Provided, however, that this article shall not apply to (1) national banks, (2) state banks, (3) other corporations heretofore or hereafter organized under the laws of this State or of the United States to the extent that such corporations are authorized under their charter or the laws of this State or of the United States to conduct such business or to use such term, and (4) private banks which were actually and lawfully conducting a banking business on the effective date of this Act¹ so long as the owners of such bank, their successors or assigns, shall continuously conduct a banking business in the city or town where such private bank was domiciled on the effective date of this Act; provided, however, that such private banks shall include the word "Unincorporated" in their firm or business names and such word shall be prominently set out upon the stationery and in all of the advertising of such private banks. This article shall not bar an individual from acting in any fiduciary capacity, if he does not hold out to the public that he is conducting any branch of the trust business. Any person violating any provision of this article shall, upon conviction, be fined not less than Five Hundred Dollars (\$500), nor more

than One Thousand Dollars (\$1,000). Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 2.

¹ Effective 90 days after May 11, 1943, date of adjournment.

Derivation:

Vernon's Ann.Civ.St. arts. 376, 490, 491,
541, 541a, 541b.

Vernon's Ann.P.C. arts. 558, 559.

Art. 342—903. Branch Banking Prohibited

No state, national or private bank shall engage in business in more than one place, maintain any branch office, or cash checks or receive deposits except in its own banking house. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 3.

Derivation:

Vernon's Ann.Civ.St. art. 538.

Art. 342—904. State Banks—Federal Reserve Membership

Any state bank may become a member of the Federal Reserve System and take such action as may be necessary or proper to effect and maintain such membership. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 4.

Derivation:

Vernon's Ann.Civ.St. art. 520.

Art. 342—905. Savings Department—Segregation of Assets—Discontinuance

Any state bank which has heretofore established a savings department shall maintain the segregation of assets of said department for ninety (90) days after the effective date of this Act,¹ and if any such bank shall be closed within said ninety (90) days, savings depositors shall be entitled to priority of payment out of the assets of that department as heretofore provided by law. After the expiration of said ninety (90) days, said assets shall no longer be segregated and if any state bank is closed subsequent to that time, the savings deposits shall not be entitled to any priority out of any asset of the bank, but shall participate in all assets on a parity with other depositors and creditors. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 5.

¹ Effective 90 days after May 11, 1943, date of adjournment.

Derivation:

Vernon's Ann.Civ.St. arts. 430-433.

Art. 342—906. Safety Deposit Boxes—Access by Joint Lessees—Opening—Lien—Sale of Content

Any state, national or private bank may maintain safety deposit boxes and rent the same. In all such transactions the relationship of the bank and the renter shall, in the absence of a contract to the contrary, be that of lessor and lessee and landlord and tenant and the rights and liabilities of the bank shall be governed accordingly, and the lessee shall be deemed in law for all purposes to be in possession of the box and the content thereof. If a safety deposit box is held in the name of two (2) or more persons jointly, any one of such persons shall be entitled to access to such box and shall be permitted to remove the content thereof and the bank shall not be responsible for any damage arising by reason of such access or removal by one of said persons. If the box rental is delinquent for six (6) months, the bank after at least sixty (60) days' notice by mail addressed to the lessee at his address on the books of the bank, may, if the rent is not paid within the time specified in said notice, open the box in the presence of two (2) executive officers of the bank and a notary public and place the content of the box in a sealed envelope

or container bearing the name of the lessee. The bank shall then hold the content of the box subject to a lien for its rental, the cost of opening the box and the damages in connection therewith. If such rental, cost and damages are not paid within two (2) years from the date of opening of such box, the bank may sell any part or all of the content at public auction in like manner and upon like notice as is prescribed for the sale of real property under deed of trust. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 6.

Derivation:

Vernon's Ann.Civ.St. arts. 411, 541e.

Art. 342—907. Slander or Libel of Banks—Penalty

Any person who shall knowingly make, utter, circulate, or transmit to another or others, any statement untrue in fact, derogatory to the financial condition of any bank, banking house, banking company, trust company, in the State, with intent to injure any such financial institution; or who shall counsel, aid, procure, or induce another to originate, make, utter, transmit, or circulate any such statement or rumor, with like intent, shall be guilty of an offense and upon conviction shall be punished by a fine of not more than Five Thousand Dollars (\$5,000) or confined in the State penitentiary not more than five (5) years, or both. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 7.

Derivation:

Vernon's Ann.P.C. art. 567a.

Art. 342—908. Application of Code to National Banks

It is not the intention of the Legislature in the enactment of this Code,¹ to discriminate between state banks and national banks and, to the extent that the State of Texas has power to legislate with reference to national banks, each provision of the Code shall apply alike to state banks and national banks domiciled in this State. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 8.

¹ Articles 342—101 to 342—911.

Art. 342—909. Severability of Provisions

If any provision of this Code¹ or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are declared to be severable. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 9.

¹ Articles 342—101 to 342—911.

**Art. 342—910. Moratorium—Banks—Building and Loan Associations—
Other Financial Institutions**

That the Banking Commissioner of the State of Texas, with the approval of the Governor of Texas, from and after passage of this Act,¹ be and he is hereby authorized and empowered to declare financial moratoriums for and invoke a uniform limitation withdrawal, co-extensive with the boundaries of the State, of deposits or withdrawable shares or share accounts from all state banks, national banks, state bank and trust companies, private banks, building and loan associations and all other banking and financial institutions in the State of Texas, or both such moratoriums and limitations of withdrawal of deposits, shares or share accounts, and to promulgate any and all orders and decrees necessary to enforce such powers herein delegated. Any state bank or state banking institution, trust company, building and loan association, private bank or financial institution other than a national bank in the State of Texas, vio-

lating or refusing to comply with any order or regulation promulgated hereunder shall forfeit its charter, and the State Banking Commissioner shall thereupon take charge of and liquidate such institution, as provided in Chapter VIII of this Code.² Any other banking institution within this State so violating or refusing to comply with any such order shall immediately forfeit its right to act as reserve agent for any State banking institution; and shall also forfeit its right to act as depository of any state, county, municipal or other public funds, and all such reserve deposits and/or deposits of state, county, municipal, or other public funds shall be immediately withdrawn by the depositor on order of the State Banking Commissioner. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 10.

¹ Articles 342—101 to 342—911.

² Articles 342—801 to 342—816.

Derivation:

Vernon's Ann.Civ.St. art. 375a.

Art. 342—911. Repealer of Conflicting Laws

The following statutes, together with all other laws or parts of laws in conflict herewith, are hereby repealed: * * *

Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11.

The portion of the text omitted from this article enumerated and repealed the following laws:

Vernon's Ann.Civ.St. arts. 342-369, 369a, 370, 370a, 370b, 371-375, 375a-375d, 376-381, 381a, 382-387, 387a, 387b, 388-489, 490-501, 501a, 502-512, 512a, 513-517, 517a, 518-522, 522a, 523-540, 540a, 541, 541a-541e, 542-548, 548a.

Vernon's Ann.P.C. arts. 536-546, 546a,

546b, 547, 547a-547c, 548, 548a, 549-559, 559a, 560a, 567a, 1269a.

For Table showing repealed articles incorporated into Texas Banking Code of 1943, see Table preceding Chapter I of this Title.

This article, in addition to repealing the above enumerated laws, declared an emergency, but such emergency clause was inoperative under Const. art. 3, § 39.

MISCELLANEOUS LAWS

Arts. 342-489a. Repealed. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11

Art. 489b. Federal deposit insurance; "banking institution" defined

Sec. 8. Repealed. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11.

Arts. 490-548a. Repealed. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11

TITLE 20—BOARD OF CONTROL

CHAPTER TWO—DIVISION OF PUBLIC PRINTING

Art. 608. Contracts

The Board of Control shall contract for a term of not exceeding two years with responsible persons, firms, corporations, or associations of persons, who shall be residents of Texas, for supplying to the state all printing, binding, stationery and supplies of like character for all departments, institutions and boards, save and except such work as may be done at the various educational and eleemosynary institutions.

For printing, binding, stationery and supplies of a like character estimated to cost One Hundred (\$100.00) Dollars or more the contract shall be let to the lowest and most responsible bidder after public advertising of such proposed letting for once a week for four consecutive weeks in at least six newspapers of general circulation in this state. No two of such papers shall be published in the same county.

For printing, binding, stationery and like supplies estimated to cost less than One Hundred (\$100.00) Dollars, the Board of Control shall be vested with authority and discretion to invite bids by mail from recognized printing firms without public advertising of such proposed lettings, which bids shall be let to the lowest and best responsible bidder.

The Board of Control may reject any and all bids; the reason therefor shall be entered in full in the minutes of the Board of Control and shall be open to inspection of the public at all times. New contracts shall be made in the same manner as hereinbefore provided. As amended Acts 1943, 48th Leg., p. 207, ch. 126, § 1.

Approved and effective April 12, 1943.
 Section 3 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

Art. 613. Bidder's bond

All bids or proposals shall be accompanied by a bond or certified check in such sum as the Board of Control may require, and such requirement shall be stated in the advertisement or invitation calling for bids. As amended Acts 1943, 48th Leg., p. 207, ch. 126, § 2.

Approved and effective April 12, 1943.

CHAPTER FOUR—PUBLIC BUILDINGS AND GROUNDS DIVISION

Art.

666b. Rental space for government agencies or departments, obtaining [New].

Art. 665a. Storage of records and archives outside Capitol Building; proviso as to American Legion

Transfer of records of state Agencies from Texas Confederate Home for Men.

Acts 1943, 48th Leg., p. 108, ch. 80, approved and effective March 25, 1943, entitled "An Act directing the Railroad Commission of Texas, the Texas Library and Historical Commission, the Bureau of Labor Statistics, the Industrial Accident Board, the Vocational Rehabilitation Division and other departments of the De-

partment of Education, the Secretary of State, the State Department of Public Welfare, the State Comptroller of Public Accounts, the State Board and Department of Health, and any other agency of the Government to move all records and property in their custody from the Texas Confederate Home for Men; directing the examination of records and a list made thereof to be submitted to the Texas Library

and Historical Commission for examination; directing such Commission to acquire such records as are wanted by them within five (5) days after delivery of such list; directing all such departments and agencies of the Government to transfer useless records not wanted by the Texas Library and Historical Commission to State Board of Control for sale or destruction; and declaring an emergency." read as follows:

"Sec. 1. The Railroad Commission of Texas, the Texas Library and Historical Commission, the Bureau of Labor Statistics, the Industrial Accident Board, the Vocational Rehabilitation Division and other departments of the Department of Education, the Secretary of State, the State Department of Public Welfare, the State Comptroller of Public Accounts, the State Board and Department of Health and any other agency of the Government are hereby directed to forthwith remove from the Texas Confederate Home for Men all books, records, correspondence, furniture, bookcases, storage crates and other property now stored by them in the buildings belonging to such institution.

"Sec. 2. Each of the above-named agencies of the State Government are hereby directed to examine all books, papers, correspondence, records, and other printing supplies owned by them and acquired by

them prior to September 1, 1939, and to make a list of all such records in their possession and custody which have no value and further use, and to submit such list thereof of records no longer needed and worthless to the Texas Library and Historical Commission for examination. Thereafter the Texas Library and Historical Commission will examine such list and if they want any or all of such records as are described in such list, such Commission shall within five (5) days after the date of the delivery of such itemized list acquire the same and remove them from the Texas Confederate Home for Men.

"Sec. 3. All such records which have not been acquired by the Texas Library and Historical Commission will be transferred to the State Board of Control, together with a certificate from the department from which such records are being transferred, stating that some of such items are needed for any purpose, whatsoever, and that the Texas Library and Historical Commission have acquired, or had an opportunity to acquire of such records, as was wanted by them.

"Sec. 4. The State Board of Control is authorized and directed to sell such records as salvage, or any commercial purpose in the manner now required by law for the sale of junk, or to destroy them if they are not salable."

Art. 666. Sale of property not needed; report

All property belonging to the state, regardless of where it is located, under the control of any department, commission, board, or other state agency, with the exception of state eleemosynary institutions, colleges, and institutions of higher learning, when it shall become unfit for use, or shall be no longer needed, shall be placed under the jurisdiction of the Board of Control, and the Board of Control shall sell such property after advertising it not less than four (4) days in a newspaper in the county wherein the property is situated. Provided, however, that if no newspaper is published in the county wherein the property is situated, notice of said sale setting out the time and place of sale and the property to be sold shall be posted in three (3) public places, one being in the court house in the county wherein the property is situated. Provided, however, that if the value of such personal property is less than One Hundred (\$100.00) Dollars and not sufficient to justify the cost of advertisement in newspapers as outlined above, the Board of Control may sell such property in any manner that it deems for the best interest of the state. The money from the sale of such property, less the expense of advertising the sale, shall be deposited in the State Treasury to the credit of the General Revenue Fund. And provided further, that any property placed in the hands of the Board of Control, as outlined herein, may be transferred by the Board of Control to any department, commission, board or state agency in need of same, and the debit and credit shall be made on the basis that such property can be purchased in the market at the time of the transfer, if a market exists, and if not, at its actual or intrinsic value as set by the Board of Control. The Board of Control shall make a written report to the Comptroller after each sale. The report shall include the following items:

1. Name of the newspaper and the dates of advertisement of notice of sale; or if posted, the date and place of posting.

2. Each article received.
3. The price for which each article was sold.
4. The name and address of the person to whom each article was sold.

"This report shall be signed by the Board of Control and a member of the department, commission, board or state agency having control of the property before sale." As amended Acts 1943, 48th Leg., p. 272, ch. 171, § 1.

Approved and effective April 27, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 666b. Rental space for government agencies or departments, obtaining

Section 1. Hereafter all departments and agencies of the State Government, when rental space is needed for carrying on the essential functions of such agencies or departments of the State Government, shall submit to the State Board of Control a request therefor, giving the type, kind, and size of building needed, together with any other necessary description, and stating the purpose for which it will be used and the need therefor.

Sec. 2. The State Board of Control, upon receipt of such request, and if the money has been made available to pay the rental thereon, and if, in the discretion of the Board such space is needed, shall forthwith advertise in a newspaper, which has been regularly published and circulated in the city, or town, where such rental space is sought, for bids on such rental space, for the uses indicated and for a period of not to exceed two years. After such bids have been received by the State Board of Control at its principal office in Austin, Texas, and publicly opened, the award for such rental contract will be made to the lowest and best bidder, and upon such other terms as may be agreed upon. The terms of the contract, together with the notice of the award of the State Board of Control will be submitted to the Attorney General of Texas, who will cause to be prepared and executed in accordance with the terms of the agreement, such contract in quadruplicate; one of which will be kept by each party thereto, one by the State Board of Control, and one by the Attorney General of Texas. The parties to such contract will be the department or agency of the government using the space as lessee and the party renting the space as lessor.

Sec. 3. Within thirty days after the effective date of this Act, all departments and agencies of the State Government at this time leasing or renting space from any person, firm, or corporation whomsoever, will cause to be prepared and delivered to the State Board of Control in Austin, Texas, a copy of any written rental or lease agreement now in force and current, or any statement of any oral understanding upon which any lease or rental public funds are being expended, if such action has not already been taken.

Sec. 4. Should any rental or lease agreement be sought by any agency or department of the State Government involving an expenditure of less than One Hundred (\$100.00) Dollars per annum, the Board of Control is authorized to waive the printing requirement of this Act only, and to mail bid proposals in lieu thereof. Acts 1943, 48th Leg., p. 385, ch. 258.

Approved and effective May 7, 1943.

Section 5 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act directing all agencies of the State Government to submit requests for rental space to the State Board of Control; directing said Board to advertise for bids on

said space, at least one time in a newspaper of regular publication in the county where such rental space is sought; excepting from the provisions of this Act rental space that costs less than One Hundred

(\$100.00) Dollars per annum; requiring that all such contracts be renewed at least every two years; and declaring an emergency. Acts 1943, 48th Leg., p. 385, ch. 258.

Art. 668. Use of rooms in Capitol as bedrooms

No room, apartment or office in the State Capitol Building shall be used at any time by any person as a bedroom or for any private purposes whatever. This article shall not apply to the rooms occupied by the judges of the Supræme Court and the Courts of Civil and Criminal Appeals on the third and fourth floors of the Capitol, nor to the offices and living quarters occupied by the Lieutenant Governor and the Speaker of the House of Representatives on the second floor of the Capitol Building. As amended Acts 1943, 48th Leg., p. 2, ch. 2, § 1.

Approved and effective Jan. 18, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

CHAPTER SEVEN—DIVISION OF ELEEMOSYNARY INSTITUTIONS

Art.

693a. Eminent domain, exercise of power of [New].

Art.

693b. Transfer of funds of one eleemosynary institution to another; act ineffective after August 31, 1945 [New].

Art. 693. General powers and duties

Employment of superintendents of state hospitals, see article 3184.

Witnesses, powers of Board of Control as to, see article 3184.

Art. 693a. Eminent domain, exercise of power of

The State Board of Control is hereby vested with the power of eminent domain, and in the exercise of said power shall have the right to condemn and may institute, maintain and prosecute suits in the name of the State of Texas for the purpose of securing lands and property necessary to the operation of any and all State Eleemosynary Institutions, State Hospitals and other institutions under the control and jurisdiction of said Board of Control 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 to aid and assist the State Board of Control in the institution and prosecution of condemnation suits. Acts 1943, 48th Leg., p. 50, ch. 46, § 1.

Approved March 4, 1943.

Effective 90 days after date of adjournment.

Section 2 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act authorizing the State Board of Control under the laws of the State of Texas to exercise the right of eminent

domain and condemnation in the securing of lands necessary to the operation of State Eleemosynary Institutions, State Hospitals and other institutions under the control and jurisdiction of said Board, and defining the duties and powers of the State Board of Control and the Attorney General's Department in regard thereto, and declaring an emergency. Acts 1943, 48th Leg., p. 50, ch. 46.

Art. 693b. Transfer of funds of one eleemosynary institution to another; act ineffective after August 31, 1945

Sec. 1. The State Board of Control by and with the consent of the Governor, is hereby authorized to transfer any balance in any fund appropriated, or local funds of any one eleemosynary institution to another, where such fund or funds are not needed in the institution from

which either, or all of said funds may be transferred; provided however, this Act shall not be effective after August 31, 1945, but such Act is meant to authorize such transfer for the current fiscal year, and for each fiscal year of the next biennium; and further provided, no fund or funds for new construction appropriated for any eleemosynary institutions will ever be transferred from one institution to another; and further provided, that no salary of any employee will be supplemented by the addition of any sum or sums of money above what is appropriated, and no new position or positions will be created and paid for by the use of any such fund or funds, and none of such fund or funds so transferred will be used for any purpose other than purchase of food, clothing and medicine.

Sec. 2. The State Comptroller of Public Accounts is hereby directed to make transfer of the sum, or sums, from either or all of the aforesaid accounts from one institution to another, upon written request therefor by the State Board of Control concurred in by the Governor. Acts 1943, 48th Leg., p. 119, ch. 89.

Approved and effective March 29, 1943.

Section 3 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the State Board of Control to transfer any balance in any fund of any eleemosynary institution in Texas to another, with the consent of the Governor, where such funds are not needed in the institution from which either or all

of said funds may be transferred; providing that the Act shall be effective for the current fiscal year and for each fiscal year of the next biennium; authorizing the Comptroller of Public Accounts to make transfer of said sums from one institution to another upon written request therefor by the Board of Control concurred in by the Governor; and declaring an emergency. Acts 1943, 48th Leg., p. 119, ch. 89.

TITLE 20A—BOARD AND DEPARTMENT OF PUBLIC WELFARE**Art. 695c. Public Welfare Act; Definitions****Seasonal or occasional employment during war**

Sec. 21a. Provided, however, that until the United States of America has concluded and entered into treaties of peace with all of the nations with whom she is now at war, commonly referred to as the Axis Powers, no grant of assistance to any recipient of old age assistance who is already on the rolls or who may hereafter be placed on said rolls, and is already receiving old age assistance, shall be reduced or revoked by reason of the fact that any such needy recipient may derive or receive other and additional income to take care of his additional needs above his grant, from seasonal or occasional employment, until and unless such needy recipient shall receive more than Two Hundred Fifty (\$250.00) Dollars of outside and additional income during a calendar year; provided said recipient of old age pension reports his said employment, in writing, to the local office of Public Welfare, giving the name and address of his employer or employers at the end of each month, and giving the amount of his earnings during the month just passed. Provided further, that neither the State Department of Public Welfare nor any of its district or county agencies in the county or district in which the needy aged person resides shall give any consideration to any such income received by recipients of old age assistance up to the amount of Two Hundred Fifty (\$250.00) Dollars that is actually derived and received in payment for labor actually performed or services rendered during a calendar year.

It is the declared purpose of this section to encourage recipients of old age assistance to aid in overcoming the great shortage of manpower during this great war emergency by performing necessary labor when and wherever possible without being faced with the possibility of having pensions reduced, or being removed from the pension rolls altogether. Added Acts 1943, 48th Leg., p. 708, ch. 393, § 1.

Approved and effective May 29, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Non-transferability of assistance; exemptions; death of recipient before warrant is cashed

Sec. 29. Old age assistance, aid to the blind, or aid to dependent children as provided for under the provisions of this Act shall not 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; the provision of this Act providing for old age assistance, aid to the blind, and aid to dependent children shall not be construed as a vested right in the recipient of such assistance; provided, however, in case any person who is an approved recipient of old age assistance, aid to the blind, or aid to dependent children, living on the first day of any month, or living at the date of the issuance of the check, or living at the date of the mailing of the check, and entitled to assistance for that month, dies before the check issued for such assistance, for the month in which the death occurs, has been endorsed or cashed by recipient, the amount of said check may be paid to any person determined by the Department of Public Welfare to have been responsible for the caring of the recipient at the time of his death and responsible for the payment of

obligations incurred; the County Judge of the county wherein the recipient died will endorse the check payable only to the person whom the Department of Public Welfare has determined was responsible for the care of the recipient at the time of the latter's death and who is responsible for the payment of obligations incurred by the recipient; the State Department of Public Welfare shall adopt reasonable rules and regulations prescribing a method of payment and limitations of such payments in such cases and the manner of ascertaining the person entitled to receive the same; provided, however, that payments to recipients under the above provisions shall be made only in such manner and to such extent as are permissible under and consistent with the laws and regulations governing the disbursement of funds received through the Federal Social Security Board. And provided further, that all old age assistance, aid to the blind, and aid to dependent children warrants not cashed, as provided by this Act, within a reasonable time after issuance may be cancelled by the State Comptroller upon proper authorization of the State Department of Public Welfare. As amended Acts 1943, 48th Leg., p. 439, ch. 297.

Approved and effective May 10, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act, or the application thereof to any person or circumstances, is held invalid, such holdings shall not affect

the validity of the remaining portions of this Act and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

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

TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.**CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS**

Art.

708b. Defense bonds and other United States obligations; investment of bond proceeds by political subdivisions [New].

Art. 708b. Defense bonds and other United States obligations; investment of bond proceeds by political subdivisions

That any political subdivision of the State of Texas which heretofore has issued and sold bonds and is unable to obtain labor and materials to carry out the purpose for which the bonds were issued may invest the proceeds of such bonds now on hand in defense bonds or other obligations of the United States of America; provided, however, that whenever war time or any other regulations shall permit such political subdivisions to acquire the necessary labor and materials, the obligations of the United States in which said proceeds are invested shall be sold or redeemed and the proceeds of said obligations shall be used for the purpose for which the bonds of any such political subdivision were authorized. Acts 1943, 48th Leg., p. 211, ch. 131, § 2.

Approved and effective April 12, 1943.

Section 1 of the act of 1943 is set out as article 2543b.

CHAPTER THREE—PUBLIC ROAD BONDS

Art. 752a. Power to issue road bonds; surplus in sinking fund

Any county, or any political subdivision of a county, or any road district that has been or may hereafter be created by any General or Special Law, is hereby authorized to issue bonds for the purpose of the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, in any amount not to exceed one-fourth of the assessed valuation of the real property of such county or political subdivision or road district, and to levy and collect ad valorem taxes to pay the interest on such bonds and provide a sinking fund for the redemption thereof. Such bonds shall be issued in the manner hereinafter provided, and as contemplated and authorized by Section 52, of Article 3, of the Constitution of this State. The term "Political Subdivision," as used in this Act, shall be construed to mean any commissioner's precinct or any justice precinct of a county, now or hereafter to be created and established. Provided when the principal and all interest on said bonds are fully paid, in the event there is any surplus remaining in the sinking fund, said remaining surplus not used in the full payment of the principal and interest on said bond or bonds may be used by the county, political subdivision of the county, or any local district that has been or may hereafter be created by any general or special law for the purpose of the construction, maintenance, and operation of macadamized, graveled or paved roads and turnpikes or in the aid thereof as may be determined by the Commis-

sioners Court of any county or the officials of any political subdivision of a county or any said road district. As amended Acts 1943, 48th Leg., p. 198, ch. 116, § 1.

Approved and effective April 8, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER FIVE—FUNDING, REFUNDING AND COMPROMISE

Art.

802b—5. Home rule or special charter cities and towns; bonds to pay existing judgments authorized [New].

Art. 802b—5. Home rule or special charter cities and towns; bonds to pay existing judgments authorized

Section 1. That the governing body of any city or town operating under a special charter granted by the Legislature or adopted or amended pursuant to the Home Rule Amendment to the Constitution, having outstanding as of January 1, 1943, against its General Fund unpaid judgments or judgment in an amount exceeding fifty (50) per cent of its general fund revenue derivable from ad valorem taxes levied for the fiscal year within which the bonds hereinafter authorized are directed to be issued, bearing interest at a rate of five (5) per cent or more per annum, shall be authorized to order an election for the purpose of submitting to the resident qualified property taxpaying voters thereof the proposition of the issuance and sale of its bonds to provide funds for the payment of such judgment or judgments and the levy of a tax sufficient to pay the principal and interest as it matures.

Sec. 2. Such bonds shall be authorized, issued and sold in the manner prescribed in the General Law relating to the issuance and sale of bonds by cities and towns, shall mature serially or otherwise in not to exceed twenty (20) years from their date and shall bear interest not to exceed four (4) per cent per annum, payable annually or semiannually.

Sec. 3. When said bonds are issued it shall be the duty of the governing body of such city to levy a tax sufficient to pay the principal and interest thereon as such principal and interest mature.

Sec. 4. Before such bonds are sold they shall be submitted to the Attorney General of the State of Texas for his examination and approval in the same manner and with the same effect as is provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of Texas of 1925, and shall be registered by the Comptroller of Public Accounts as provided in said Articles.

Sec. 5. No bonds shall be delivered until the judgment or judgments for the payment of which such bonds are authorized has or have been released and such release of judgment is delivered to the city.

Sec. 6. All such judgments are hereby declared to be final and conclusive, and the evidences of obligations upon which such judgments were obtained are hereby validated and declared to be general obligations of such city, provided that this Section shall not be applicable to any

such judgments from which an appeal is now pending or to obligations which may be in litigation at the time this Act becomes effective.

Sec. 7. No provision in the charter of any such issuing city relating to the authorization, issuance and sale of bonds shall be applicable to the bonds issued hereunder but the provisions of this Act shall prevail.

Sec. 8. This law shall be cumulative of all other laws on the subject. In the event any of the provisions of this Act conflict with, or are inconsistent with, the provisions of any other law, general or special, or with a provision of the charter of any such city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail. Acts 1943, 48th Leg., p. 26, ch. 23.

Approved and effective Feb. 17, 1943.

Section 9 of the Act of 1943 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 operating under special charter granted by the Legislature, as adopted or amended pursuant to the Home Rule Amendment to the Constitution of the State of Texas to submit to qualified property taxpaying voters the proposition of the issuance of bonds to provide funds for paying certain valid judgments outstanding against the general operating fund of such cities; providing for the levy of a tax to pay interest and principal thereof; prescribing the mode and manner of holding such election; prescribing the maximum maturity date and interest rates; providing for examina-

tion and approval by the Attorney General of Texas and registration by Comptroller of Public Accounts; validating such judgments and the evidence of the obligations upon which such judgments were obtained, provided that said validating provision shall not apply to any such judgments which have not become final or any evidences of obligations sued on that are in litigation at the time the Act becomes effective; providing that this Act shall prevail over all charter provisions relating to authorization, issuance and sale of bonds; providing that the Act shall be cumulative of all other laws on the subject and that in the event of conflict with other such laws or charter provisions this Act shall take precedence; enacting other provisions relating to the subject hereof; and declaring an emergency. Acts 1943, 48th Leg. p. 26, ch. 23.

TITLE 24—BUILDING AND LOAN ASSOCIATIONS

Uniform Stock Transfer Act inapplicable to building and loan associations, see article 1358—22.

Art. 881a—7. Supervision and control; fiscal agents, acting as

The Banking Commissioner of Texas shall have supervision over and control of all building and loan associations doing business in this state (except Federal Savings & Loan Associations organized under and by virtue of the Home Owners' Loan Act of 1933¹ passed by the Congress of the United States), and shall be charged with the execution of the laws of this state relating to such associations. No building and loan association shall be subject to any visitorial powers other than such as is authorized by this Act² or vested in the courts of justice, it being the intent of this Act to confer exclusive visitorial powers upon the Banking Commissioner, the Building and Loan Supervisor and the examiners appointed by the Banking Commissioner; provided, however, that any association which is a member of a Federal Home Loan Bank or which is insured by the Federal Savings & Loan Insurance Corporation may be examined by the examiners of these Federal instrumentalities as provided by law. All such building and loan associations shall be deemed and are hereby declared to be instrumentalities and agencies of the State Government and shall be charged with the duty and responsibility to act as fiscal agents for the state when requested to do so. If and when an association is a member of a Federal Home Loan Bank, it shall have power to act as fiscal agent of the United States, and, when designated for that purpose by the Secretary of the Treasury, it shall perform, under such regulations as he may prescribe, all such reasonable duties as fiscal agent of the United States as he may require, and shall have power to act as agent for any other instrumentality of the United States when designated for that purpose by such instrumentality. The Banking Commissioner shall appoint a Building and Loan Supervisor, who shall, during the absence or inability of the Commissioner or under the instructions and direction of the Commissioner, exercise the powers and perform the duties of the Commissioner relative to the supervision of building and loan associations and the enforcement of the provisions of this Act relating to such associations; and such appointee shall have had not less than two (2) years' actual experience in the operation and management in an executive position of a building and loan association, or shall have had not less than eighteen (18) months' actual experience in the supervision of building and loan associations, or, not less than two (2) years' experience in the employ of a building and loan association and not less than two (2) years' actual experience as a Building and Loan Examiner, or not less than five (5) years' actual experience as a building and loan examiner.

"He shall likewise appoint such building and loan examiners as in his judgment may be necessary to examine at proper and suitable intervals all building and loan associations under his supervision, which said examiners shall have had not less than one (1) year's actual experience in the accounting division of a building and loan association, or shall have had not less than two (2) years' actual experience in examining building and loan associations. He shall appoint such other employees as may be necessary to properly and adequately supervise the building and loan associations under his supervision, who are fitted and qualified by train-

ing and experience to perform the duties they are required to perform. As amended Acts 1943, 48th Leg., p. 482, ch. 323, § 1.

¹ 12 U.S.C.A. §§ 1461-1468.

² Articles 881a—1 to 881a—68; P.C. arts. 1136a—1 to 1136a—9.

Approved and effective May 14, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "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 pro-

visions of this law but the same shall remain in full force and effect."

Section 3 repealed articles 881a—37a to 881a—37c.

Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 881a—9. Fees to accompany statement

"At the time of the filing of its annual statement, every domestic building and loan association shall be required to pay to the Treasurer, through the Banking Commissioner of Texas, fees, which are in lieu of examination fees, based upon its gross assets in amounts not exceeding figures calculated in accordance with the following schedule:

Those with assets less than		\$ 250,000.00	pay	\$ 57.00
\$ 250,000.00	to	500,000.00	pay	82.00
500,000.00	to	750,000.00	pay	115.00
750,000.00	to	1,000,000.00	pay	153.00
1,000,000.00	to	1,250,000.00	pay	191.00
1,250,000.00	to	1,500,000.00	pay	230.00
1,500,000.00	to	1,750,000.00	pay	268.00
1,750,000.00	to	2,000,000.00	pay	306.00
2,000,000.00	to	2,500,000.00	pay	383.00
2,500,000.00	to	3,000,000.00	pay	460.00

For associations with assets from Three Million (\$3,000,000.00) Dollars to Six Million (\$6,000,000.00) Dollars in size add Fifty-seven (\$57.00) Dollars for each million in excess of Three Million (\$3,000,000.00) Dollars; for associations with assets over Six Million (\$6,000,000.00) Dollars add Twenty-three (\$23.00) Dollars for each million in excess of Six Million (\$6,000,000.00) Dollars. Such fees, together with any other fees, penalties or revenues collected by the Commissioner pursuant to the provisions of this Chapter or pursuant to other laws of this State relative to corporations under the supervision of the Banking Department shall be paid by the Commissioner to the State Treasurer who shall deposit the same to the credit of the General Revenue Fund. The expenses of supervision, examination and of the Commissioner in enforcing the provisions of this Act¹ shall be paid upon the certificate of the Commissioner by warrant of the Comptroller upon the State Treasury. As amended Acts 1943, 48th Leg., p. 482, ch. 323, § 1.

¹ Articles 881a—1 to 881a—68; P.C. arts. 1136a—1 to 1136a—9.

Art. 881a—24. Trust funds

Guardians authorized to invest in savings and loan shares, see, also, article 4180.

Art. 881a—29. Articles of association

Any number of persons, not less than five (5), who are citizens of this state, desiring to incorporate a building and loan association may, by complying with the provisions of this Act¹ and entering into articles of association, become a corporate body. Such articles of association shall be signed by the persons associating and acknowledged before some person authorized by the laws of this state to take acknowledgments to deeds, and shall set forth:

1. The name assumed by the association, which shall not be the name assumed by any other association incorporated under this law, nor so similar as to be liable to mislead. The name of the associations hereafter chartered shall terminate with the words "building and loan association" or "savings and loan association", and associations heretofore chartered may by amendment to their charter change the name of their association so as to provide for such terminology.

2. The purpose or purposes for which the association is formed, and which may include any or all of the powers given by law to building and loan associations and, which purpose may state "to form and conduct a savings and loan association under the laws of Texas" which will be deemed to give such associations so formed all of the powers expressly and impliedly given to such associations under the Building and Loan Laws of Texas as now existing and may be hereafter amended, and all incidental powers necessary to exercise its specific powers.

3. The name of the city, town or village and the county wherein the principal place of the business of the association is to be located, and which must be within the State of Texas.

4. The amount of its authorized capital stock, which shall be divided into shares of the maturity or par value of not less than One Hundred (\$100.00) Dollars each.

5. The names of the incorporators; their respective occupations and residence address, and a statement of the number of shares subscribed by each, and the amount of cash payment made upon such shares or share accounts by each.

6. The amount of capital actually paid in which shall in no event be less than One Thousand (\$1,000.00) Dollars if the home office of the association is located in a town having a population of less than ten thousand inhabitants, and which shall not be less than Two Thousand (\$2,000.00) Dollars if the home office of the association is located in a city having a population of more than ten thousand and less than fifty thousand inhabitants, and which shall not be less than Ten Thousand (\$10,000.00) Dollars if the home office of the association is located in a city having a population of more than fifty thousand and less than one hundred and fifty thousand inhabitants, and which shall not be less than Twenty-five Thousand (\$25,000.00) Dollars if the home office of the association is located in a city having a population of one hundred and fifty thousand or more inhabitants. The population of all towns and cities for the purpose of fixing the minimum paid-in capital stock of the association under this section shall be ascertained by reference to the last preceding Federal Census. All payments for shares or share accounts of required paid-up capital stock must be in lawful money of the United States and must be in the custody of the persons named as the first board of directors.

7. The term of corporate existence which shall not exceed fifty (50) years but which period may be extended as provided in this Act.

8. The number of directors of the association shall not be less than five (5) nor more than twenty-one (21) and associations authorized by their articles of incorporation or by-laws to issue Permanent Reserve Fund Stock may provide in their articles of incorporation or by-laws that all or at least a majority of the board of directors shall be elected from the shareholders holding Permanent Reserve Fund Stock; and the names of the incorporators shall be its first directors until the first annual meeting. The incorporators named as directors must possess the qualification of directors specified in Section 33 of this Act.² As amended Acts 1943, 48th Leg., p. 482, ch. 323, § 1.

¹ Articles 881a—1 to 881a—68; P.C. arts. 1136a—1 to 1136a—9.

² Article 881a—32.

Art. 881a—36. Classes of shares

All building and loan associations, when provided in its by-laws, may issue different classes of shares, stock, share accounts and investment certificates as provided herein:

(a) Installment shares, (1) with participation in all dividends that may be declared by such association, and upon which a regular payment of dues of not less than Twenty-five (25¢) Cents or more than Two (\$2.00) Dollars per One Hundred (\$100.00) Dollars share per month shall be made at stated periods expressed by its by-laws, until such shares reach their matured value, or are withdrawn, retired or forfeited; (2) or with no participation in such dividends, the dues being payable thereon in regular amounts at stated periods, expressed by its by-laws, and being immediately or at stated periods applied, in reduction of a debt due to the association from the holder thereof in accordance with a direction given by him.

(b) Thrift or optional-payment shares, which shall participate in the dividends apportioned by the association and shall be credited therewith at a rate not less than 60% of the rate of dividend apportioned and credited to installment shares, as the by-laws shall provide, and upon which dues shall be paid in such sums and at such times as the holder thereof may elect until the shares reach their matured value, are withdrawn or retired.

(c) Advance-payment, accumulative or prepaid shares upon which a single payment of dues to the amount of 50% or more of the maturity value of such shares shall be paid at the time the shares are issued. The dividends on these shares shall not exceed the dividends apportioned and credited to installment shares, and the whole or a part of the dividends apportioned to these shares shall be credited to them until such shares are matured, withdrawn or retired. Any balance of such dividend not so credited shall be paid in cash to the holder of such shares, at regular dividend paying periods.

(d) Fully-paid or income shares upon which a single payment of dues amounting to the par or maturity value shall be paid at the time when such shares are issued. The dividends on these shares shall be paid in cash at a rate not exceeding at any time the rate at which dividends are apportioned and credited to installment shares, and providing that agreements may be entered into by and between any such association and any of its members holding fully paid or income shares, as the by-laws shall provide, whereby said members waive participation in the general profits of such association.

(e) Juvenile shares may be issued in the name of any minor. Such shares shall be held for the exclusive right and benefit of the minor and free from the control or lien of any other persons. The dues paid upon these shares, together with the dividends credited thereto, may be withdrawn in whole or in part by the person in whose name they were issued during his minority and his receipt or acquittance shall be a valid and sufficient release and discharge to the association for such accumulated dues together with the dividends credited thereon, or any part thereof. Juvenile shares shall not be subject to any membership or withdrawal fees of any nature, or to fines for failure to pay dues punctually, nor shall the holder thereof be required to make regular or specific payments. Such shares shall not be chargeable with losses of any kind nor shall they entitle the holder to vote at any meeting of the shareholders. Such shares may be credited with dividends at a rate not less than 60% of the rate of dividends apportioned and credited to installment shares, as the

by-laws shall provide. The matured value of all the juvenile shares issued by an association shall not exceed in the aggregate at the time of issue 25% of the aggregate matured value of existing shares of all other classes.

(f) Reserve fund or permanent stock, which when sold may not be withdrawn, except as hereafter provided, until after all liabilities of the association have been satisfied in full, including the withdrawal value of all other types or classes of shares and share accounts, and which may receive as dividends all the earnings of the association after expenses have been paid and the dividends declared by the directors upon other classes of shares and share accounts have been paid or credited; which such stock if allowed by the by-laws must be fully paid for in advance, and against which the association may not make any loans; and which fully paid reserve fund or permanent stock must at all times be at least 3% of the gross assets of the association, but not less than Twenty-five Thousand (\$25,000.00) Dollars, but which shall not be required to exceed Two Hundred Fifty Thousand (\$250,000.00) Dollars; provided that associations whose shares are insured by the Federal Savings and Loan Insurance Corporation may retire in whole or in part such reserve fund or permanent stock heretofore issued, when such association is authorized to do so by a majority vote of its members, provided that the basis of such retirement shall have been approved by the Banking Commissioner of Texas, and provided further that no such association shall be authorized to retire its reserve fund or permanent stock until a consent to such retirement upon the part of the Federal Savings and Loan Insurance Corporation has been filed in writing with the Banking Commissioner of Texas.

(g) Share accounts may be issued by associations subject to provisions of this Act.¹ Share accounts of One Hundred (\$100.00) Dollars or multiples thereof, shall be known as "investment share accounts". All other share accounts shall be known as "savings share accounts". Payments upon share accounts shall be called "share payments". Share account holders are deemed to be members of the association in which they hold accounts in the same manner and to the same proportionate extent as are shareholders, and no creditor and debtor status or preference in earnings or assets is authorized to be created by the authority to issue share accounts, but the status of "member" shall continue until such share accounts have been withdrawn and paid, transferred or retired. The participation value in the share capital of each share account held by a member shall be the aggregate of payments made upon such share account and dividends credited thereto, less repurchase or withdrawal payments. "Savings share accounts" shall be entitled to the same rate of dividends as may be paid by the association upon Thrift or Optional share accounts, and "investment share accounts" shall be entitled to the same rate of dividend paid by the association upon fully paid or income shares. Dividends to those holding savings share accounts and those holding investment share accounts shall be provided for at the same time dividends are declared for the different classes of shares provided for in this section.²

(h) Such other and different classes of shares, stock or investment certificates as may be provided in its by-laws, but only after the by-laws provisions applying thereto have been specially approved by the Banking Commissioner of Texas. As amended Acts 1943, 48th Leg., p. 482, ch. 323, § 1.

¹ Articles 881a—1 to 881a—68; P.C. 1136a—1 to 1136a—9.

² This article.

Art. 881a—37. Investment of funds

Subject to the provisions of this Act,¹ any building and loan association may invest the funds received by it, as follows:

1. In loans to its members on the sole security of its shares and share accounts. No such loan shall exceed 90% of the withdrawal value of the shares or share accounts owned or otherwise pledged by the borrower. No such loan shall be made for more than 50% of the withdrawal value of the shares pledged as security when an association has applications filed for withdrawal which have been on file and unpaid for more than ninety (90) days.

2. (a) In real estate loans to members secured by a mortgage, deed of trust or other instrument creating and/or constituting a first lien on improved real estate situated in this state. Borrowers shall be required to execute their note or obligation payable directly to the association and such loans shall be repayable in monthly installments sufficient to amortize the same paying off interest and principal in not less than five (5) nor more than twenty-five (25) years, which monthly installments shall be applied first to the interest due on the unpaid balance of the debt, and the remainder of the payment to the unpaid principal thereof until the same is paid in full; (b) Instead of such direct reduction loan, the association may require the borrower to subscribe an amount of shares having a maturity value equal to the amount of the loan, and take a note or obligation of the borrower to mature upon the maturity of such shares, and shall require a monthly payment sufficient to pay the interest on the note and estimated to mature the shares within the time specified, and in such case, the association shall have a lien on such shares to secure the debt, and upon the maturity of the shares shall transfer the amount to the credit thereof in extinguishment of the debt and shall cancel and relinquish the security; provided, that subject to the approval of the Commissioner, the number of payments of dues, interest and premium required from the borrowing shareholder to pay off his loan and secure a release may be limited to such a definite number as the by-laws provide.

No loan made to a member under the provisions of this sub-section shall exceed 65% of the appraised valuation of the real property securing the loan unless the loan is secured by a first mortgage upon real property upon which there is located a dwelling or dwellings for not more than four families, or combination dwellings of such type and business property, in which event the loan may be made in an amount not in excess of 80% of the appraised valuation of such real property. Associations having a loan secured by a first lien upon real property may make further and additional loans secured by liens subsequent to their own first lien upon the same security, subject to the requirements and limitations heretofore provided for original loans. In each instance where money is advanced an appraisal shall at that time be made in writing by an appraiser or committee of appraisers selected and appointed by the Board of Directors of the Association, which appraisal report shall state the conservative value of the real property and improvements separately, and such report shall be filed as a permanent record of such association.

Associations may pay taxes, assessments, insurance premiums, and other similar charges for the protection of its interests in property on which it has loans, and may carry such advances upon its books as an asset of the association, and charge and collect interest upon such advances, and such association shall have a good and valid lien against such real property and shares of the association owned by the borrower to secure the payment of the funds so advanced; or such payments may be

added to the unpaid balance of the loan as of the first of the month in which such payments are made.

No premium for real estate loans may be charged unless provided for in the by-laws and the amount to be collected agreed to be paid in writing by the borrower.

3. In loans and advances of credit and obligations representing loans and advances of credit as are insured by the Federal Housing Administrator or the Federal Housing Administration pursuant to any and all of the provisions of the National Housing Act, approved June 27, 1934, as amended² or as may hereafter be amended, or any substitute therefor; and, further, associations may make any loans for the purposes of aiding members to purchase or to construct residential properties or to repair, maintain, modernize or improve such properties if such loans be guaranteed or insured by the United States or any instrumentality thereof. Associations are authorized and empowered to contract for and to obtain and to accept such insurance or guarantees.

4. In loans to members secured by the pledge of the association's share or share accounts, either participating or non-participating, which shares or share accounts through the payment of weekly or monthly dues or share payments contracted to be made thereupon shall equal the amount of the loan to the member; provided, the aggregate of the unpaid principal of all loans directly made to any one member of the association under the provisions of Sub-division 4 hereof shall not exceed at any time the sum of Three Hundred (\$300.00) Dollars, if at the time of making the loan or loans the association shall be one having assets less than One Million (\$1,000,000.00) Dollars and which shall not exceed at any time in any other authorized association the sum of One Thousand (\$1,000.00) Dollars, that such loans shall be payable when the shares or share accounts equal the amount of the loan, maturity of which shall not exceed eighteen (18) months from its date and which note may bear interest not in excess of the lawful contract rate, which may be deducted in advance. Such associations may charge reasonable fees for investigation, appraisal, service, collection or other costs incident to the application or the loan, which fees may not be higher than those permitted to be collected by persons, firms, or corporations by the provisions of the laws of this state now in effect or as may hereafter be amended or enacted relating to or regulating the charges that may be made by any person, firm or corporation authorized to make this character of loan. The association may take such additional security as they may deem necessary or proper. The aggregate total amount of the unpaid principal of loans held by any association at any one time as authorized by Sub-division 4 hereof shall be included within the amount and shall not exceed the prescribed limitation placed upon the aggregate amount of funds authorized to be invested by any association under the provisions of Sub-division 5-d of this section; and provided, further, that where such association is an "insured" association subject to the provisions of Title IV of the National Housing Act, approved June 27, 1934, as amended,³ before any such association may make loans authorized under Sub-division 4 hereof, prior permission in writing must be given by the Federal Savings and Loan Insurance Corporation, Washington, D. C. and a copy of such permission filed with the Banking Commissioner of Texas.

5. If at any time an association has funds in its treasury applicable for loans and investments, which funds are deemed to be in excess of the amount needed for types of loans and investments hereinbefore enumerated, and for the payment of matured shares and withdrawal requests, such association may invest its funds: (a) without limit as to amount

in the obligations of the United States of America, of this state, of any Federal instrumentality if such obligations be unconditionally guaranteed as to principal and interest by the United States, in stock of the Federal Home Loan Bank of which it is a member and obligations of the Federal Home Loan Banks and the Federal Savings and Loan Insurance Corporation; (b) in loans secured by a first lien upon improved real property situated in this state which may be either amortized monthly loans within the maximum period of maturity and the maximum ratio of loan to appraised value prescribed in Sub-paragraph 2 hereof; or which may be term loans or loans providing for other methods of payment than amortized monthly installments and which may not provide a longer period of maturity than five (5) years from the date of the loan and, which such loans shall not exceed 60% of the conservative appraised value of the real property securing the loan, the value in all cases to be determined in the manner provided in this Act. In any case where an association is authorized to loan money upon property, or by a lien upon such property, it is authorized to loan money upon first mortgages or other first liens upon such property; (c) in the stock or obligations of any National Mortgage Association, created under the National Housing Act, as amended or as may hereafter be amended, the obligations of the Home Owners' Loan Corporation, the Reconstruction Finance Corporation, the Federal Land Banks, or in the obligations of any state in the Union that has not within the last ten (10) years previous to making such investment defaulted in the payment of any part of either principal or interest thereof; and subject to the rules and regulations promulgated by the Banking Commissioner of Texas in the following obligations and securities: 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 the 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 not defaulted in the payment of any part of either principal or interest thereof within five (5) years previous to making such investments; 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, equalled during the last five (5) years twice the annual interest charges on the entire funded indebtedness of such corporation; and in other bonds, notes, certificates and obligations, when such investments are specifically approved by the Banking Commissioner of Texas as a proper investment for the building and loan association seeking to make the investment; (d) in short term loans to and in the shares of other building and loan associations incorporated under this Act and of Federal Savings and Loan Associations located in this state, such loans and investments to be made only after prior approval by the Banking Commissioner. Provided, further, that the aggregate amount of funds invested by any association in the loans and securities authorized under Sub-division 4, Sub-divisions 5-b, 5-c, and 5-d, and Sub-division 6-d of this section shall at no time exceed 25% of the gross assets of the association.

6. In real property as follows: (a) Any building and loan association having assets of Five Hundred Thousand (\$500,000.00) Dollars or more may, with the approval of the Banking Commissioner, permanently invest a portion of its funds in the purchase of lands and the erection of buildings for the purpose of providing offices for the transaction of

its business from portions of which, not required for its own uses, a revenue may be derived, provided that the amount so invested shall not exceed 5% of all other assets of the association; (b) such real property as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business; (c) such real property as it shall purchase at sales under foreclosure at any sheriff's or other judicial sale, or at any other sale, public or private, upon which property the association may have or hold any mortgage lien, or other encumbrance or in which the association may have any interest for the purpose of collecting any debt due it, and/or for the protection of its interest in such real property; (d) and such association may purchase the fee simple title to real property upon which improvements have been erected out of the proceeds of a loan which is secured by an obligation and mortgage, authorized, created and insured under provisions of the National Housing Act, approved June 27, 1934, as amended and as may hereafter be amended, and which obligation and mortgage is in compliance with the rules and regulations prescribed by the Federal Housing Administrator, provided, that at the time of such purchase there is a valid lease in effect creating a leasehold interest in such land and improvements thereon, which lease has a term of at least twenty (20) years from date of the note and complies with all requirements, terms, conditions, rules and regulations of the Federal Housing Administrator.

Real property may be acquired and sold in accordance with the provisions of Section 27 hereof,⁴ provided, that when sold by the association under a 'Contract of Sale' the amount due the association under terms of the contract may be entered and carried as an asset upon its books, but at no time shall the contract be considered as having an asset value greater in amount than the sales price agreed upon in the contract, or greater in amount than the value at which such property sold was permitted to be carried upon the books of the association in accordance with the provisions of Section 27 hereof, whichever value is less; provided, that the provisions of Section 27 and such other laws of this state as relate to the acquisition, handling and disposition of real property by building and loan associations shall not be deemed to apply to the authority granted by Sub-section 6-d herein.

7. A reasonable amount in furniture and fixtures necessary for the conduct of the association's business against which must be charged annually a sufficient depreciation, and which annual depreciation shall not be less than 10% of the original cost of such furniture and fixtures.

No law of this state prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made by building and loan associations, or prescribing or limiting the amount of monthly payment of dues upon installment shares of such associations, or prescribing the form of note or lien, or in any wise governing or limiting the action of the association in proceeding with the maturing of obligations in default and the acquisition of, possession and title to property securing such obligations, or limiting or prescribing the amount that may be loaned to any one borrower or relating to the acquisition, handling or disposition of real property by such associations shall be deemed to apply to the authority granted herein under Sub-divisions 3, 4, and 6-d; and provided further that the Banking Commissioner of the State of Texas is hereby authorized to prescribe additional regulations applying to the making of loans, advancing of credit, and purchase of obligations and real property, as authorized under Sub-divisions 4 and 6-d of this section, and limiting the total investment of such associations, if in his judgment the protection of investors requires such additional

regulations, and notice of the order fully setting out such additional regulations shall be given by registered mail to each building and loan association operating under this Act at least thirty (30) days prior to the effective date of such order; and after the effective date so provided, it shall thereafter be unlawful for any association to exercise the authority herein given, without full compliance with such additional regulations.

8. Nothing herein shall be construed as preventing or restricting the deposit of cash funds of the association with any State or National Banking Association or with the Federal Home Loan Bank in which such association holds membership.

All notes and mortgages taken by the association shall be deemed to obligate the maker to the performance of and compliance with the provisions of this Act and by-laws of the association relating to the payment of loans, premium, interest, dues, fees and fines, although the same may not be fully expressed therein; and all borrowers of a building and loan association shall be deemed and held to be members thereof, and shall be permitted to cast the number of votes for each share held or subscribed as may be provided in the charter and by-laws of the association, but shall nevertheless be entitled to cast a vote in all matters for action by members whether they hold any shares or not.

Nothing herein shall be construed as preventing or restricting an association in order to protect itself from the loss upon a loan or investment previously made, from acquiring ownership of, or otherwise taking and holding, any kind of property or security, whether real or personal.

Every association eligible to become a member of a Federal Home Loan Bank under the provisions of the Act of Congress known as the "Federal Home Loan Bank Act", approved July 22, 1932, as amended⁵ and as may hereafter be amended, is authorized to do all things as may be required or permitted under said Act, or any amendment thereto, in order to obtain, continue, or terminate such membership; and to assume all the duties, obligations, responsibilities and liabilities and become entitled to all of the benefits provided in said Act, as amended, and as may hereafter be amended; and

Every association eligible for insurance under the provisions of Title IV of the National Housing Act, approved June 27, 1934, as now or hereafter amended, is authorized to do all things necessary to obtain, continue, or terminate such insurance, and every action heretofore taken by any such association in connection with such insurance is hereby ratified and confirmed. All associations having the insurance protection provided by Title IV of the National Housing Act are hereby designated as "insured associations".

Any provisions of this Act to the contrary notwithstanding, any building and loan association which is chartered by the State of Texas and operating under the provisions of this Act may make any loan or investment which such association could make were it incorporated and operating as a Federal Savings and Loan Association with its domicile in this state. If the loan or investment hereby authorized is an enlargement of powers granted by this Act, then such loans and investments may be made subject to rules and regulations promulgated by the Banking Commissioner of Texas. As amended Acts 1943, 48th Leg., p. 482, ch. 323, § 1.

¹ Articles 881a—1 to 881a—68; P.C. arts. 1136a—1 to 1136a—9.

² 12 U.S.C.A. §§ 1701—1742.

³ 12 U.S.C.A. §§ 1724—1730.

⁴ Article 881a—26.

⁵ 12 U.S.C.A. §§ 1421—1449.

Arts. 881a—37a to 881a—37c. Repealed. Acts 1943, 48th Leg., p. 482, ch. 323, § 3. Eff. May 14, 1943

Art. 881a—39. Repayment of loans

Mortgage loans may be prepaid in accordance with the by-laws of the association and in accordance with the terms of the note and mortgage, provided, the borrower shall pay the principal due thereon (less the withdrawal value of the shares transferred as security therefor), loan expenses, the premium due and the interest accrued at the time of such repayment, and all sums advanced by the association for taxes, assessments, or insurance premiums, with interest thereon; and in addition thereto any penalty for prepayment in part or in full agreed upon in the note or mortgage or prescribed by the by-laws but which, in the case of mortgages insured by the Federal Housing Administrator, may not be in excess of that permitted by the rules and regulations of the Federal Housing Administration and which, in the case of other mortgage loans, shall not exceed 5% of the amount of such anticipatory payment. Any borrower desiring to retain the shares may repay his loan without claiming credit for the withdrawal value of such shares, whereupon such shares shall be retransferred to the borrower and shall be free from any claim by reason of said loan. If any such association is in process of either voluntary or involuntary liquidation, the payments made by such borrower, plus credited dividends, less any lawful fees, fines, penalties or advances owing by such member on his shares of stock, shall be applied on the indebtedness owing by such borrower, who shall have the same time for payment at the same rate of interest as would have been required if said association were not in liquidation. Provided, however, that all building and loan associations may rewrite any loan heretofore or hereafter made in such manner as to reduce the rate of interest which the borrower has theretofore obligated himself to pay if authorized by the board of directors. As amended Acts 1943, 48th Leg., p. 482, ch. 323, § 1.

Art. 881a—48. Matured shares

Whenever the dues and dividends credited to the shares of any shareholder in any such association shall equal their matured value such shares shall be deemed to have "matured", the payment of dues thereon shall cease, and the holder shall be entitled to withdraw and receive in payment therefor the withdrawal value in accordance with the provisions of Section 47 of this Act.¹ For the purpose of maturing shares, a special dividend may be credited between dividend dates to shares nearly matured at the same rate at which the last periodical dividend was credited, provided the earnings for the current dividend period justify such special dividend. If not withdrawn upon maturity, the shares shall be considered and treated as Fully Paid Shares and shall be entitled to receive dividends at the equivalent rate declared and paid on fully paid shares of the association; and the holder of matured shares remains a member and shareholder of the association until his matured shares are withdrawn from the association. As amended Acts 1943, 48th Leg., p. 482, ch. 323, § 1.

¹ Article 881a—46.

TITLE 25—CARRIERS

1. DUTIES AND LIABILITIES

Art.

889a. Blind persons accompanied by "Seeing Eye" dogs, transportation of; admittance to hotels, inns, etc. [New].

1. DUTIES AND LIABILITIES

Art. 889a. Blind persons accompanied by "Seeing Eye" dogs, transportation of; admittance to hotels, inns, etc.

Section 1. Any blind person who is a passenger on any common carrier, motor vehicle, railroad train, motor bus, street car, boat, or any

other public conveyance or mode of transportation operating within the State of Texas, shall be entitled to have with him as his "Seeing-Eye," a dog specially trained for that purpose, without being required to pay an additional charge therefor; provided said "Seeing-Eye" dog shall be securely muzzled, by its owner, and that the common carrier shall designate where said dog shall ride when being so carried or conveyed.

Sec. 2. Blind persons and their "Seeing-Eye" dogs shall not be denied admittance to any hotel, tourist cabin, public inn, or any other similar place because of such "Seeing-Eye" dogs.

Sec. 3. Any person or persons, firm, association, or corporation, or the agent of any person, firm, association, or corporation who shall violate the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200). Acts 1943, 48th Leg., p. 696, ch. 387.

Filed without the Governor's signature, May 13, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 4 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing all blind persons with "Seeing-Eye" dogs shall be permitted on

all common carriers for passengers in the State of Texas and providing there shall be no additional fare for such "Seeing-Eye" dogs; providing said dogs shall be muzzled; providing the common carrier shall designate where said dog shall ride; prohibiting a denial of entry of said "Seeing-Eye" dogs; providing a penalty for the violation of this Act; and declaring an emergency. Acts 1943, 48th Leg., p. 696, ch. 387.

6. REGULATION OF MOTOR BUS TRANSPORTATION

Art. 911a. Motor bus transportation and regulation by railroad commission

Blind persons accompanied by "Seeing Eye" dogs, transportation of, see article 889a.

TITLE 26—CEMETERIES

Art. 926. Investment of perpetual care funds

Perpetual care funds shall not be used for any other purpose than to provide through the income only therefrom the perpetual care stipulated in the resolution, by-law or other action or instrument by which the fund was created or established, and it shall be the duty of the board of directors of the association in charge thereof, and its duly appointed trustee to invest, reinvest and keep such funds invested in bonds of the United States or the State of Texas or of any County, City, or other political subdivision of the State of Texas, or in first mortgage or on improved real estate, or in the shares or share accounts of any building and loan association organized under the laws of this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation, and in the shares or share accounts of any Federal Savings & Loan Association domiciled in this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation; or in bonds legal for investment for savings banks, or trust companies in this State. As amended Acts 1943, 48th Leg., p. 74, ch. 59, § 1.

Approved and effective March 11, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

Tex.St.Supp. '43-8

TITLE 28—CITIES, TOWNS AND VILLAGES

Chap.

Art.

12A. City Manager Plan [New]1164a—1

CHAPTER ONE—CITIES AND TOWNS

Art. 969b. Property outside corporate limits, acquiring for certain purposes; cities and towns in counties over 350,000 [New].

Art. 974c-1. Cities and towns of 5000 or less; validation of annexation of territory [New].

Art. 962. 764, 383, 342 General powers

Investment by political subdivisions of state in Defense Bonds or other United States obligations, see article 1269j—3.

Art. 969b. Property outside corporate limits, acquiring for certain purposes; cities and towns in counties over 350,000

Section 1. Any incorporated city or town in this State incorporated under general or special law or authorized to have or having a Charter under the provisions of the Constitution of Texas or the Statutes and being situated in a county, which has a population of more than three hundred and fifty thousand (350,000) inhabitants according to the Federal Census next preceding the exercise of the power hereby granted shall have and is hereby granted the power separately or jointly with any other city, town, cities or towns, in the same county, or jointly with any other city, town, cities or towns and the county, within which such city or town is situated, to receive and acquire through gift or dedication and to acquire by purchase without condemnation or by condemnation, any property in this State located inside or outside of the corporate limits of such city or town, for the following purposes, which are declared to be public purposes: parks, hospitals, the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, watersheds, dams, the laying, building, maintenance and construction of water mains and the laying, erection, establishment or maintenance of any necessary appurtenances or facilities which will furnish to the inhabitants of the city an abundant supply of wholesome water; for sewage plants and systems; rights of way for water and sewer lines; play grounds, airports, and landing fields, incinerators, garbage disposal plants, streets, boulevards and alleys or other public ways, and any right of way needed in connection with any property used for any purpose hereinabove named, and to exercise Police Power within the territory so acquired.

The procedure to be followed in condemnation proceeding hereunder and authorized herein shall be in accordance with the provisions of the State law with reference to eminent domain. The provisions of Title 52 of the Revised Civil Statutes of Texas (1925) shall apply to such proceedings, or such proceedings may be under any other State law now in existence or that hereafter may be passed governing and relating to the condemnation of land for public purposes by a city.

Sec. 2. Such city or town and such city, town, cities, towns and counties are hereby empowered to maintain, improve and operate the property so acquired and all improvements thereon and to sell or lease all or any part of the property and improvements so acquired and shall have

full and ample power to jointly manage, control and operate such property so owned by two or more such political subdivisions, by entering into any contracts with each other on terms mutually agreeable.

Sec. 3. For the purpose of condemning or purchasing, either or both, lands to be used and maintained as provided in Section 1 hereof, and improving and equipping the same for such use, the governing body of any city or the Commissioners Court of any county, falling within the terms of such Section, may issue negotiable warrants and bonds of the city or of the county, as the case may be, and levy taxes to provide for the interest and sinking funds of any such warrants and bonds so issued, the authority hereby given for the issuance of such warrants and bonds and levy and collection of such taxes to be exercised in accordance with the provisions of the Revised Civil Statutes of Texas of 1925 with the amendments thereto.

Sec. 4. The political subdivision or subdivisions acquiring property under this Act is and are hereby expressly authorized and empowered to improve, maintain and conduct the same for the purposes hereby authorized and to make and provide thereon all necessary or fit improvements and facilities and to fix such reasonable charges for the use thereof as the governing body or bodies or governing bodies of the city, town, cities or towns acquiring property or making improvements under the provisions of this Act shall determine by mutual agreement and are granted ample Police Power to make and enforce rules and regulations governing the use thereof as the interested governing bodies shall determine by ordinance.

Sec. 5. In addition to and exclusive of any taxes which may be levied for the interest and sinking fund of any bonds issued under the authority of this Act, the governing body of any such city or town and the Commissioners Court of any county, falling within the terms hereof, may and is hereby empowered to levy and collect a special tax for the purpose of improving, operating, maintaining and conducting any property which such city or county may acquire under the provisions of this Act, and to provide all suitable structures, and facilities therein. Provided that nothing in this Act shall be construed as authorizing any city or county to exceed the limits of indebtedness placed upon it under the Constitution.

Sec. 6. Any city or town acquiring any property under the authority of the foregoing section shall also be authorized to make any contract and to expend its public funds in the joint or several operation and maintenance of any of the municipal functions authorized by this Act.

Sec. 7. This Act shall be deemed to be cumulative of all other laws and Charter Provisions relating to the same subject.

Sec. 8. In case any section, clause, sentence, paragraph, provision or part of this Act shall for any reason be adjudged by any Court of competent or final 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 such judgment shall have been rendered. Acts 1943, 48th Leg., p. 564, ch. 335.

Approved and effective May 14, 1943.

Section 9 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing any city or town, in any county of this State having a population of more than three hundred and fifty

thousand (350,000) inhabitants, regardless of how incorporated, to acquire by gift, purchase, condemnation or otherwise separately or jointly with any other city, town, cities, towns or other city, town, cities, towns and county, within which such municipality is situated, property within or outside of such city, town, cities and towns for public purposes as set out in this Act; to improve the same, issue warrants and

bonds to pay the cost of such property and improvements; to sell, lease, regulate, manage, operate, control and charge for the use thereof; to exercise Police Power within the territory and property so acquired; to levy taxes to carry out the purposes of this Act; to make mutual agreements with reference to such joint

ownership and operation; making this Act cumulative of all other laws; containing a saving clause; declaring an emergency and an imperative public necessity; suspending the Constitutional Rules with reference thereto and making this Act effective immediately upon its passage. Acts 1943, 48th Leg., p. 564, ch. 335.

Art. 974c—1. Cities and towns of 5000 or less; validation of annexation of territory

Section 1. This Act shall affect and apply to all cities and towns incorporated under the General Laws of this State and having a population of five thousand (5,000) inhabitants or less, according to the last preceding Federal Census.

Sec. 2. All elections, election orders, election proceedings, petitions and ordinances annexing territory to or extending and prescribing the corporate limits of any incorporated city or town having a population of five thousand (5,000) inhabitants or less according to the last preceding Federal Census, shall be and the same are hereby validated and confirmed.

Sec. 3. The ordinances of all cities and towns 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 and confirmed.

Sec. 4. In every instance wherein a city or town coming under the provisions of this Act has attempted to extend its corporate limits under Statutes providing for the annexation of adjoining territory, all actions, resolutions, elections, ordinances, proceedings and contracts held, made or passed, in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, irrespective of any irregularities, as fully and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 5. The areas and boundaries of all cities and towns affected by this Act as the same have been extended or attempted to be extended by annexation or any other action are hereby in all things ratified. Acts 1943, 48th Leg., p. 700, ch. 389.

Approved May 18, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 6 of the Act of 1943 read as follows: "This Act shall not affect the validity of the annexation to or extension of the boundaries of any city or town wherein such annexation to or extension of the boundaries of are now, or within one hundred (100) days after this bill becomes a law, involved in litigation."

Section 7 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act validating the annexation of territory and the extension of the boundaries

of all cities and towns incorporated under the General Laws and having a population of five thousand (5,000) inhabitants or less, according to the last preceding Federal Census; validating all elections, election orders, election proceedings, petitions and ordinances, annexing territory or extending and prescribing the corporate limits of any such city or town; providing that this Act shall not apply in cases where litigation affecting such annexation to or extension of boundaries is now pending; or which within one hundred (100) days after this bill becomes a law may become involved in litigation; and declaring an emergency. Acts 1943, 48th Leg., p. 700, ch. 389.

CHAPTER THREE—DUTIES AND POWERS OF OFFICERS

Art. 1002. 812, 411, 367 Control of officers

Conduct of business by assistants or deputies when physical vacancy occurs in public office, see article 6252—1.

CHAPTER EIGHT—STREETS AND ALLEYS

Art.

1085a. Freeways in cities of 293,000 or more [New].

Art. 1085a. Freeways in cities of 293,000 or more

Section 1. In all incorporated cities and towns containing more than two hundred ninety-three thousand (293,000) inhabitants according to the last preceding or any future Federal Census, the governing body thereof may do any and all things necessary to lay out, acquire and construct any section or portion of any street within its jurisdiction as a freeway, and to make any existing street a freeway.

Sec. 2. "Freeway" means a street in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access.

Sec. 3. The governing body of any such city or town is authorized to close any street within its jurisdiction at or near the point of its intersection with any freeway, or to make provision for carrying any street over or under or to a connection with the freeway, and may do any and all things on such street as may be necessary therefor.

No existing public street shall be converted into a freeway except with the consent of the owners of abutting lands or the purchase or condemnation of their right of access thereto, provided, however, nothing herein shall be construed as requiring the consent of the owners of the abutting lands where a street is constructed, established or located for the first time as a new way for the use of vehicular and pedestrian traffic.

Sec. 4. If any section, sub-section, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, sub-sections, sentences, clauses or phrases be declared unconstitutional. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict. Acts 1943, 48th Leg., p. 27, ch. 24, as amended Acts 1943, 48th Leg., p. 470, ch. 314, § 1.

Amendatory Act of 1943 approved and effective May 13, 1943.

Section 5 of the Act of 1943, ch. 24, and section 2 of the amendatory Act of 1943, ch. 314, declared an emergency and provided that the Acts should take effect from and after their passage.

Title of Act:

An Act providing that in all incorporated cities and towns containing more than two hundred ninety-three thousand (293,-

000) inhabitants and less than three hundred seventy-five thousand (375,000), according to the last preceding or any future Federal Census, the governing body shall have power to lay out, acquire and/or construct any section or portion of any street within its jurisdiction as a freeway under certain circumstances; declaring the provisions of this Act to be severable, and declaring an emergency. Acts 1943, 48th Leg., p. 27, ch. 24.

CHAPTER TEN—PUBLIC UTILITIES

<p>1. CITY OWNED UTILITIES</p> <p>Art. 1108a. Electric properties partly in Texas and partly in New Mexico [New].</p> <p>2. ENCUMBERED CITY SYSTEM</p> <p>1118a—1. Moneys in lieu of school taxes; payment from current revenue</p>	<p>Art.</p> <p>1118j—2. Validation of sewer system bond proceedings in cities and towns of not over 3000 [New].</p>	<p>of existing public utility acquired and financed through revenue bonds [New].</p>
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1. CITY OWNED UTILITIES

Art. 1108a. Electric properties partly in Texas and partly in New Mexico

Section 1. That where any city in Texas is now or hereafter being supplied with electricity by means of a privately owned electric plant and system, part of which, including facilities for the generation and transmission of electricity distributed in part to the inhabitants of said city, is located in the State of New Mexico, such city is hereby authorized to acquire, own and operate such electric plant and system in whole or in part, and in order to pay for the cost of such acquisition to issue the revenue bonds of such city in the manner now provided for the issuance of revenue bonds by cities under the general laws of Texas, and the revenue bonds so issued shall be fully negotiable instruments for all purposes.

Sec. 2. That any city so acquiring an electric plant and system is authorized to sell electricity either at retail or wholesale for distribution in the State of New Mexico and to enter into such contracts and agreements in that connection as may be provided by the governing body thereof.

Sec. 3. That the provisions of this Act are severable, and if any of its provisions shall be held to be invalid by any court of competent jurisdiction, the remaining provisions shall remain fully effective, it being hereby expressly declared to be the legislative intent that this Act would have been adopted had any such invalid provision not been included therein. Acts 1943, 48th Leg., p. 301, ch. 195.

Approved and effective April 29, 1943.

Section 4 of the Act of 1943 repealed all conflicting laws and parts of laws.

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

Title of Act:

An Act authorizing cities in Texas to own and operate electric properties situated in part in Texas and in part in New

Mexico, and to issue negotiable revenue bonds for the purpose of acquiring such properties; authorizing such cities to enter into contracts for the sale of electricity in New Mexico; providing a saving clause; repealing all laws or parts of laws in conflict herewith to the extent of such conflict; and declaring an emergency. Acts 1943, 48th Leg., p. 301, ch. 195.

2. ENCUMBERED CITY SYSTEM

Art. 1113. Income; expenses a lien; rates; records; reports; penalty

Whenever the income of any light, water, sewer, or natural gas systems, parks and/or swimming pools, shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such incomes. Provided, that only such repairs and extensions, as in the judgment of the governing body of such city or town, are necessary to keep the plant or utility in operation and render adequate

service to such city or town and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the original securities, shall be a lien prior to any existing lien. The rates charged for services furnished by any such system shall be equal and uniform, and no free service shall be allowed except for city public schools or buildings and institutions operated by such city or town. There shall be charged and collected for such services a sufficient rate to pay all operating, maintenance, depreciation, replacement, betterment and interest charges, and for interest and sinking fund sufficient to pay any bonds issued to purchase, construct or improve any such systems or any outstanding indebtedness against same. No part of the income of any such system shall ever be used to pay any other debt, expense, or obligation of such city or town except payments made in lieu of ad valorem taxes previously paid by the private owners of the plants or systems mentioned above until the indebtedness so secured shall have been finally paid.

It shall be the duty of the Mayor of such city or town to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the free service rendered, and the value thereof, and showing separately the amounts expended and/or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, interest, and the creation of a sinking fund to pay off such bonds and indebtedness.

"It shall likewise be the duty of the superintendent or manager of such plant to file with the Mayor of such city or town, not later than February first, a detailed report of the operations of such plant for the year ending January first preceding, showing the total sums of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as the result of operation of such plant during such calendar year.

Failure or refusal on the part of the Mayor to install and maintain, or cause to be installed and maintained, such system of records and accounts within ninety (90) days after the completion of such plant, or on the part of such superintendent or manager, to file or cause to be filed such report, shall constitute a misdemeanor and, on conviction thereof, such Mayor or superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000); and any taxpayer or holder of such indebtedness residing within such city or town shall have the right, by appropriate civil action in the District Court of the County in which such city or town is located, to enforce the provisions of this Act as amended. As amended Acts 1943, 48th Leg., p. 220, ch. 139, § 1.

Approved and effective April 14, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

Art. 1118a—1. Moneys in lieu of school taxes; payment from current revenue of existing public utility acquired and financed through revenue bonds

Section 1. Whenever any city or town, including home rule cities, is situated wholly or partially in a school district, or in which there is situated wholly or partially a school district, after the effective date of this law, shall acquire a public utility or utilities then existing, and finances the purchase thereof through the issuance of revenue bonds, and such public utility property, within its territorial limits is at the time subject to taxation for the benefit of any school district, the governing body of any such city or town in issuing revenue bonds for the purchase

price thereof, may expressly provide in any indenture of trust, mortgage or other lien instrument evidencing the obligation of such city or town in respect of the purchase price of such utility or utilities, for the payment annually from the income of such utility or utilities, a sum in amount equivalent to the average annual taxes assessed in behalf of such school district upon the properties of such utility or utilities for the five (5) years immediately preceding the year in which such utility or utilities shall be acquired by such city or town; provided, however, that by mutual agreement of the board of trustees of such school district and the governing body of such city or town, provision may be made for the payment annually of a sum in lieu of school taxes as shall be deemed adequate and just under all the circumstances of the case, due consideration being given to the needs of such school district. The obligation thus assured by any such city or town, including home rule cities, to make such payment to a school district in lieu of ad valorem property school taxes shall constitute a proper item of operating expense, which together with other operating expenses shall always be a first lien and charge against the income of such encumbered utility or utilities.

Sec. 2. The obligation of any such city or town to pay any such school district moneys in lieu of taxes as provided in the encumbrance agreement shall be and constitute an "expense or obligation" of such system or systems as such terms are used in statutes authorizing the acquisition of such public utilities and the issuance of revenue bonds for the purchase thereof, and such obligations shall extend to and bind any and all cities or towns, including home rule cities, purchasing or otherwise acquiring any such then existing public utility or utilities, in accordance with the provisions of such encumbrance agreements or mutual agreements as authorized in Section 1 of this Act.

Sec. 3. The obligation of any such city or town, including home rule cities, as fixed in such indenture or encumbrance, shall not be impaired or affected, modified or released, by the release or discharge of such encumbrance, and such city or town, including home rule cities, shall continue while such city or town shall own and operate any such public utility to pay to any such school district annually from the revenues thereof such amount as a sum in amount equivalent to the average annual taxes assessed in behalf of such school district upon the properties of such utility or utilities for the five (5) years immediately preceding the year in which such utility or utilities shall be acquired by such city or town, including home rule cities; provided, however, that from and after the date of release or discharge of such encumbrance the board of trustees of any such school district and the governing body of such city or town may by mutual agreement from time to time provide for the payment annually from the revenues of such utility or utilities owned and operated by such city or town of such sum or sums in lieu of school taxes as shall be deemed adequate and just under all the circumstances of the case, due consideration being given to the needs of such school district.

Sec. 4. This Act shall apply solely to purchases or acquisitions, subsequent to the effective date hereof, of then existing public utilities made by any city or town of this state, including home rule cities, and shall not apply to or in any wise affect any purchase or acquisition of a public utility or utilities of whatsoever character acquired by any such city or town prior to the effective date of this Act. Cities and towns, including home rule cities, shall be authorized to operate under the provisions of this Act in acquiring existing public utilities under any and all laws of the state permitting the acquisition of existing public utilities through the issuance of revenue bonds, including Articles 1111 to 1113, inclusive,

of the 1925 Revised Civil Statutes of the State of Texas and amendments thereto, and including Chapter 314, Acts of the Regular Session of the 42nd Legislature and amendments thereto.¹ Acts 1943, 48th Leg., p. 398, ch. 269.

¹ Article 1118a.

Approved and effective May 8, 1943.

Section 5 of the Act of 1943 repealed 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 authorize the annual payment from the income of any then existing public utility acquired by any city or town, including home rule cities, of moneys in lieu of school taxes to any school district in which such city is wholly or partially situated, or which is situated wholly or

partially in any such city or town, when purchased through the issuance of revenue bonds and provision therefor is made in the encumbrance agreement; providing for mutual agreements as to the amount of such annual payments between the governing body of such city or town and the board of trustees of such school districts; providing that the provision of this amendment shall operate prospectively only; repealing all laws in conflict herewith, to the extent of any conflict; and declaring an emergency. Acts 1943, 48th Leg., p. 398, ch. 269.

Art. 1118j—2. Validation of sewer system bond proceedings in cities and towns of not over 3000

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 submitting to the qualified electors, during the year 1941, the question of the issuance of the bonds of any such cities and towns pursuant to the provisions of Articles 1111 to 1118 of the Revised Civil Statutes of Texas, 1925, as amended, said bonds to be payable solely from the revenues derived from the operation of the sanitary sewer system, and where a majority of the qualified voters of any such city or town voting at said election on said proposition has voted in favor of the issuance of any such bonds and in favor of pledging the revenues of said system, or the mortgaging of said system, or by both pledging of the revenues and the mortgaging of said system, for the payment of such bonds, said election or elections and all proceedings heretofore had in connection with the calling and holding of said election or elections and the canvassing of the returns thereof, are hereby validated, ratified and confirmed, despite any irregularity which may have occurred therein, and said cities or towns are hereby authorized to complete the proceedings for the authorization, issuance and delivery of 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 any such city or town in accordance with the terms thereof, and shall be paid as to both principal and interest from the revenues of such sanitary sewer system in accordance with the provisions of the proceedings so authorizing the bonds.

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 litigation which is pending at the time this Act takes effect. Acts 1943, 48th Leg., p. 417, ch. 284.

Approved and effective May 8, 1943.

Section 3 of the Act of 1943 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 proceedings had by cities and towns in the State of Texas having a population of not more than three thousand (3,000), according to the preceding Federal Census, in submitting to the qualified voters, during the year 1941, the question of issuing of revenue bonds under the provisions of Articles 1111 to 1118, Revised

Civil Statutes of Texas of 1925, as amended, to finance the construction of a sanitary sewer system, in so far as any irregularities in following the requirements of the laws governing the holding of such election and canvassing the returns thereof are concerned; authorizing such cities and towns to complete the proceedings for the

authorization, sale, and delivery of such bonds; providing that the provisions of this Act shall not apply to any proceedings where the validity thereof has been contested or attacked in any suit or litigation which is pending at the time this Act becomes effective; and declaring an emergency. Acts 1943, 48th Leg., p. 417, ch. 284.

CHAPTER ELEVEN—TOWNS AND VILLAGES

Art.

1134c. Validation of incorporation of cities and towns between 200 and 10,000 [New].

Art. 1133. May be incorporated

Validation of incorporation, see article 1134c.

Art. 1134c. Validation of incorporation of cities and towns between 200 and 10,000

Section 1. All cities and towns in Texas of more than two hundred (200) and less than ten thousand (10,000) inhabitants heretofore incorporated or attempted to be incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925,¹ and Senate Bill 144, passed by the Forty-seventh Legislature, Regular Session, 1941,² whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election may have been ordered by the Commissioners Court instead of the County Judge, nor shall such incorporation be held invalid on account of irregularities in the petition for election, order of election, notice of election, returns of election, order declaring result of election, or other incorporation proceedings.

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns since their incorporation, or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, and such governmental proceedings shall be effective the same as if such cities and towns had been regularly incorporated in the first instance.

Sec. 3. The provisions of this Act shall affect no city or town now in litigation. Acts 1943, 48th Leg., p. 688, ch. 381.

¹ Articles 961-1269L.

² Article 1133.

Approved May 17, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 4 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act validating the incorporation of such cities and towns of more than two hundred (200) and less than ten thousand (10,000) inhabitants heretofore incorporated or attempted to be incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925, and Senate

Bill 144, passed by the Forty-seventh Legislature, Regular Session, 1941; and validating the governmental proceedings performed by the governing bodies of such cities and towns since their incorporation or attempted incorporation, respectively; providing elections shall not be held invalid for certain reasons; providing that the provisions hereof shall affect no city or town now in litigation; and declaring an emergency. Acts 1943, 48th Leg., p. 688, ch. 381.

Art. 1140. 1042, 587, 514 Powers of corporation

Investment by political subdivisions of state in Defense Bonds or other United States obligations, see article 1269J-3.

CHAPTER TWELVE A—CITY-MANAGER PLAN [NEW]

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| <p>Art.
 1164a—1. Adoption of city-manager plan.
 1164a—2. Definition.
 1164a—3. Adoption of Act; election; petition.
 1164a—4. Appointment of city manager; salary.
 1164a—5. Powers and term of manager.</p> | <p>Art.
 1164a—6. Qualifications of manager.
 1164a—7. All officers to be appointive.
 1164a—8. Abandonment of city-manager plan; petition; election.
 1164a—9. Duties of governing body upon abandonment of city-manager.
 1164a—10. Conduct of elections.</p> |
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Art. 1164—1. Adoption of city-manager plan

Any incorporated city, town or village in this State incorporated under the General Laws, having a population of less than five thousand (5,000) inhabitants according to the last preceding or any future Federal Census, may vote upon the question of adopting a city-manager plan of government as in this Act¹ provided. Acts 1943, 48th Leg., p. 615, ch. 356, § 1.

¹ Articles 1164a—1 to 1164a—10.

Approved May 15, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 10 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing that any incorporated city, town or village in this State incorporated under the General Laws, having a population of less than five thousand (5,000) inhabitants according to the last preceding or any future Federal Census, may vote upon the question of adopting a city-manager plan of government as further provided; defining the word "city"; providing that before the provisions of the Act shall apply to and become operative in any city that it shall be submitted to a vote of the legally qualified electors of such city for adoption, and shall receive a majority of all the votes cast thereon at such election; providing that upon the filing of a petition with the city clerk, signed by not less than twenty (20) per cent of the total number of legally qualified electors voting for mayor at the last preceding city election, requesting the mayor to call a special election for the adoption of this Act, that it shall be the duty of the mayor within ten (10) days after the filing of such petition to issue a proclamation calling a special election for such purpose, and

providing that such election shall be held within thirty (30) days after the filing of such petition; providing that such proclamation shall state the election is called in order to submit this Act for adoption and providing the manner of issuing such proclamation and of publication; providing the form of ballot to be used in such election; providing the manner and method of appointment of a city manager and providing that the governing body shall fix his salary by ordinance; providing for the powers and duties of the city manager and fixing his term; providing for qualifications of the city manager; providing for the appointment of all officers except members of the governing body; providing for the manner and requisites of calling an election to determine whether a city which has previously adopted the provisions of this Act shall abandon the city-manager form of government and prescribing the form of ballot to be used at such election; prescribing the duties of the governing body upon abandonment of the city-manager plan; and providing that such elections as may be provided for or authorized by this Act shall be called, held, and conducted as near as practical the same as other city elections except as otherwise provided in the Act; and declaring an emergency. Acts 1943, 48th Leg., p. 615, ch. 356.

Art. 1164a—2. Definition

The word "city" where used in this Act¹ shall mean any city, town or village incorporated under the General Laws of this State, having a population of less than five thousand (5,000) inhabitants according to the last preceding or any future Federal Census. Acts 1943, 48th Leg., p. 615, ch. 356, § 2.

¹ Articles 1164a—1 to 1164a—10.

Art. 1164a—3. Adoption of Act; election; petition

Before the provisions of this Act¹ shall apply to and become operative in any city of this State, it shall be submitted to a vote of the legally qualified electors of such city for adoption, and shall receive a majority of all the votes cast thereon at such election. Provided, however, that upon the filing of a petition with the city clerk, signed by not less than twenty (20) per cent of the total number of legally qualified electors voting for mayor at the last preceding city election, requesting the mayor to call a special election for the adoption of this Act, it shall be the duty of the mayor within ten (10) days after the filing of such petition, to issue a proclamation calling a special election for such purpose, and such election shall be held within thirty (30) days after the filing of such petition. Such proclamation shall state that the election is called in order to submit this Act for adoption, and shall be signed by the mayor and attested by the city clerk, and shall be published in some newspaper of general circulation within the city for one time not less than ten (10) days preceding said election. Such proclamation shall be posted in at least five (5) conspicuous places within such city not less than ten (10) days preceding such election.

The ballots used for the submission of such question shall be substantially as follows: -

FOR the governing body of the city of (naming the city) appointing a city manager and fixing by ordinance the salary of such manager.

AGAINST the governing body of the city of (naming the city) appointing a city manager and fixing by ordinance the salary of such manager. Acts 1943, 48th Leg., p. 615, ch. 356, § 3.

¹ Articles 1164a—1 to 1164a—10.

Art. 1164a—4. Appointment of city manager; salary

If a majority of all votes cast at such election shall be in favor of the appointment of a city manager, then the governing body of such city shall within sixty (60) days after such election appoint a city manager and by ordinance shall fix his salary. Acts 1943, 48th Leg., p. 615, ch. 356, § 4.

Art. 1164a—5. Powers and term of manager

If such city has authorized by vote, as in this Act¹ provided, the appointment of a city manager, then after the appointment of such city manager as herein provided, the administration of the city's business shall be in the hands of such manager. The manager shall be appointed by the governing body and shall hold office at the pleasure of the governing body. The governing body shall be responsible for the manager's efficient administration of the city's business. The governing body by ordinance may delegate to and confer upon such manager such additional powers and duties as in their judgment may be proper for the efficient administration of the city affairs. Acts 1943, 48th Leg., p. 615, ch. 356, § 5.

¹ Articles 1164a—1 to 1164a—10.

Art. 1164a—6. Qualifications of manager

The manager shall be chosen solely upon the basis of administrative ability. Choice shall not be limited by any resident qualifications. The manager shall give bond for the faithful performance of his duties, in such amount as may be provided by ordinance. Acts 1943, 48th Leg., p. 615, ch. 356, § 6.

Art. 1164a—7. All officers to be appointive

When a majority of the voters have adopted the provisions of this Act¹ as set out in Section 3,² thereafter all officers of such city except members of the governing body shall be appointed as may be provided by ordinance; provided that any officer who has been elected by a vote of the people shall be allowed to serve until the expiration of his term of office. Acts 1943, 48th Leg., p. 615, ch. 356, § 6a.

¹ Articles 1164a—1 to 1164a—10.

² Article 1164a—3.

Art. 1164a—8. Abandonment of city-manager plan; petition; election

Any such city which has authorized the appointment of a city manager as in this Act¹ provided may abandon such city-manager plan at any time after any such city has elected to come under the provisions of this Act, and on the filing of a petition with the city clerk signed by not less than twenty (20) per cent of the total number of legally qualified electors voting for mayor at the last preceding city election, requesting the mayor to call a special election for the abandonment of the city-manager form of government, it shall be the duty of the mayor within ten (10) days after the filing of such petition, to issue a proclamation calling a special election for such purpose, and such election shall be held within thirty (30) days after the filing of such petition. Such proclamation shall state that the election is called in order to submit the question of the abandonment of the city-manager plan of government as previously adopted by such city, and such proclamation shall be published as provided in Section 3 of this Act.²

The ballots used for the submission of such question shall be substantially as follows:

FOR abandoning the city-manager plan of government in the city of (naming the city).

AGAINST abandoning the city-manager plan of government in the city of (naming the city). Acts 1943, 48th Leg., p. 615, ch. 356, § 7.

¹ Articles 1164a—1 to 1164a—10.

² Article 1164a—3.

Art. 1164a—9. Duties of governing body upon abandonment of city-manager plan

If a majority of all the votes cast at such election shall be in favor of the abandonment of the city-manager plan, then the governing body of such city shall within sixty (60) days after such election discharge the city manager, and shall then assume the powers and duties delegated to such governing body under the existing laws, in the same manner and to the same extent as though the provisions of this Act¹ had never been adopted. Acts 1943, 48th Leg., p. 615, ch. 356, § 8.

¹ Articles 1164a—1 to 1164a—10.

Art. 1164a—10. Conduct of elections

Such elections as may be provided for or authorized by this Act¹ shall be called, held and conducted as near as practical the same as other city elections except as otherwise provided in this Act. Acts 1943, 48th Leg., p. 615, ch. 356, § 9.

¹ Articles 1164a—1 to 1164a—10.

CHAPTER THIRTEEN—HOME RULES

Art. 1175. Enumerated powers

Bonds to pay indebtedness or judgments authorized, see articles 802b—1, 802b—3, 802b—5.

CHAPTER TWENTY—MISCELLANEOUS PROVISIONS

Art.

1269j—3. Investments by political subdivisions of state in Defense Bonds or other United States obligations [New].

Art. 1269j—3. Investments by political subdivisions of state in Defense Bonds or other United States obligations

All political subdivisions of the State of Texas which have balances remaining in their accounts at the end of any fiscal year may invest such balances in Defense Bonds or other obligations of the United States of America; provided, however, that when such funds are needed the obligations of the United States in which such balances are invested shall be sold or redeemed and the proceeds of said obligations shall be deposited in the accounts from which they were originally drawn. Acts 1943, 48th Leg., p. 481, ch. 321, § 1.

Approved and effective May 13, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing all political subdivisions of this State to invest balances remaining in their accounts at the end of any

fiscal year in Defense Bonds or other obligations of the United States of America; providing, however, that whenever such funds are needed the bonds of the United States in which said balances are invested shall be sold or redeemed and the proceeds deposited in the funds from which they were drawn; and declaring an emergency. Acts 1943, 48th Leg., p. 481, ch. 321.

TITLE 32—CORPORATIONS—PRIVATE

CHAPTER ONE—PURPOSES

Art.

1302. Purposes.

Subject	Subdivision No.
Hotels and tourist camps.....	44a

Art. 1302, 1121, 642, 566. Purposes.

44a. To own, lease, operate, and manage hotels and tourist courts and to own the stocks, bonds, and other securities of hotel and tourist court corporations. Added Acts 1943, 48th Leg., p. 249, ch. 150, § 1.

Approved and effective April 20, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER TWO—CREATION OF CORPORATIONS

Art.

1315(c). Corporations without capital stock; extension of charters
[New].

Art. 1315(c). Corporations without capital stock; extension of charters

Section 1. Any corporation, except a banking corporation, organized and operating under the laws of this State, without capital stock, may, within the last twelve (12) years before the expiration of its charter have same extended by applying to the Secretary of State in the form and manner hereinafter outlined. The application for extension shall be made under oath by the President and Secretary of such corporation; shall be accompanied by a Resolution adopted by the membership, at a regular or special meeting, called for that purpose, by a majority vote of the members voting and a sworn statement of the President and Secretary that said corporation is solvent, giving its assets and liabilities. And any untrue statements as to the solvency and/or assets and liabilities of such corporation shall be sufficient grounds for the forfeiture of the charter of such corporation or extension thereof. The application for extension shall contain the following information:

- (a) The name and address of the corporation.
- (b) The date of issue, term and expiration date.
- (c) The kind of business in which engaged.
- (d) The period of time for which the charter is extended, which period shall not exceed fifty (50) years.
- (e) A remittance in the same amount required to amend the charter.

When these requirements have been met, and if the Secretary of State, after a thorough examination which must be paid for by applicant, finds such corporation to be solvent, the Secretary of State may issue a certificate showing that the charter is extended, which certificate shall become a part of the charter for all necessary purposes. Provided that any corporation that is refused an extension of its charter by the Secretary of State shall have the right to bring suit in a court of competent jurisdiction to determine if it is solvent and entitled to an extension of its charter and the trial shall be on the merits and without regard to the proceedings had before the Secretary of State. Provided further that in the event

of litigation involving the extension of any charter, it shall be automatically continued in force until final judgment in the case.

Sec. 2. This Act shall be cumulative of all laws or parts of laws not in conflict herewith, and all laws or parts of laws in conflict herewith are hereby repealed. Acts 1943, 48th Leg., p. 219, ch. 138.

Approved April 14, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 3 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39. Title of Act:

An Act to provide that corporations organized without capital stock shall have

the right to have their charters extended; naming the conditions under which such extensions will be granted by the Secretary of State; providing that this Act shall be cumulative of all laws not in conflict herewith, and repealing all laws or parts of laws that are in conflict herewith; and declaring an emergency. Acts 1943, 48th Leg., p. 219, ch. 138.

CHAPTER THREE—GENERAL PROVISIONS

Art.		Art.	
1358—1.	Uniform Stock Transfer Act; how title transferred [New].	1358—11.	Warranties on transfer of certificate or assignment of secured claim [New].
1358—2.	Powers of persons lacking full legal capacity and of fiduciaries not enlarged [New].	1358—12.	Holder of certificate as security, by accepting payment of debt, does not warrant genuineness or value [New].
1358—3.	Corporation not forbidden to treat registered holder as owner [New].	1358—13.	Attachment or levy; new certificates [New].
1358—4.	Title derived from certificate extinguishes title derived from separated document [New].	1358—14.	Creditor's remedies to reach certificate [New].
1358—5.	Persons who may effectually deliver certificate [New].	1358—15.	Lien or restriction must be stated on certificate [New].
1358—6.	Indorsement effectual notwithstanding fraud, duress, mistake, revocation, death, incapacity or lack of consideration [New].	1358—16.	Alteration of certificate [New].
1358—7.	Rescission of transfer [New].	1358—17.	Lost or destroyed certificate [New].
1358—8.	Rescission of transfer as affecting subsequent transfer by transferee in possession to good faith purchaser [New].	1358—18.	Law governing in cases not provided for by Act [New].
1358—9.	Delivery of unindorsed certificate imposes obligation to endorse [New].	1358—19.	Construction of act [New].
1358—10.	Attempted transfer without delivery as promise to transfer [New].	1358—20.	Indorsement [New].
		1358—21.	Owner of certificate [New].
		1358—22.	Act inapplicable to building and loan associations [New].
		1358—23.	Definitions [New].
		1358—24.	Existing certificates not affected [New].
		1358—25.	Short title [New].
		1358—26.	Partial invalidity [New].

Art. 1334. Repealed. Acts 1943, 48th Leg., p. 722, ch. 397, § 25. Eff. June 1, 1943

Prior to repeal article was amended by Acts 1939, 46th Leg., p. 134, § 1.

Uniform Stock Transfer Act, see articles 1358—1 to 1358—26.

Section 2 of the amendatory act of 1939 declared an emergency and provided that the act should take effect from and after its passage.

Art. 1349. [1164] [665] [589] Acts prohibited

"No corporation, domestic or foreign, doing business in this State, shall employ or use its stock, means, assets or other property, directly or indirectly for any purpose whatever other than to accomplish the legitimate business of its creation, or those purposes otherwise permitted by law; provided that nothing in this Article shall be held to inhibit corporations from contributing to any bona fide association, incorporated or unincorporated, organized for purely religious, charitable or eleemosy-

nary activities, or to commercial or industrial clubs or associations or other civic enterprises or organizations not in any manner nor to any extent directly or indirectly engaged in furthering the cause of any political party, or aiding in the election or defeat of any candidate for office, or aiding in defraying the expenses of any candidate for office, or defraying or aiding in defraying the expenses of any political campaign, or political headquarters, or aiding or assisting the success or defeat of any question to be voted upon by the qualified voters of this State or any subdivision thereof. As amended Acts 1943, 48th Leg., p. 311, ch. 202, § 1.

Filed without the Governor's signature,
April 30, 1943.

Effective April 30, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1358—1. Uniform Stock Transfer Act; how title transferred

Title to a certificate and to the shares represented thereby can be transferred only:

(a) By delivery of the certificate indorsed either in blank or to a specified person by the person appearing by the certificate to be the owner of the shares represented thereby; or

(b) By delivery of the certificate and a separate document containing a written assignment of the certificate or a power of attorney to sell, assign, or transfer the same or the shares represented thereby, signed by the person appearing by the certificate to be the owner of the shares represented thereby. Such assignment or power of attorney may be either in blank or to a specified person.

The provisions of this section shall be applicable, although the charter or articles of incorporation or code of regulations or by-laws of the corporation issuing the certificate and the certificate itself provide that the shares represented thereby shall be transferable only on the book of the corporation or shall be registered by a registrar or transferred by a transfer agent. Acts 1943, 48th Leg., p. 722, ch. 397, § 1.

Filed without the Governor's signature,
June 1, 1943.

Effective June 1, 1943.

Section 25 of the Act of 1943 repealed article 1334 and all other conflicting laws and parts of laws.

Section 28 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to be known as the Uniform Stock Transfer Act; providing how title to certificates and shares may be trans-

ferred; making a certificate fully negotiable; providing that delivery of an unindorsed certificate imposes an obligation to indorse; providing for warranties on sale of certificate; restricting attachment or levy against shares; making provisions regarding altered, lost or destroyed certificates; containing definitions; repealing Article 1334, Revised Civil Statutes, 1925, as amended, and any other Acts or parts of Acts inconsistent with this Act; providing a savings clause; and declaring an emergency. Acts 1943, 48th Leg., p. 722, ch. 397.

Art. 1358—2. Powers of persons lacking full legal capacity and of fiduciaries not enlarged

Nothing in this Act¹ shall be construed as enlarging the powers of an infant or other person lacking full legal capacity, or of a trustee, executor or administrator, or other fiduciary, to make a valid indorsement, assignment or power of attorney. Acts 1943, 48th Leg., p. 722, ch. 397, § 2.

¹ Articles 1358—1 to 1358—26.

Art. 1358—3. Corporation not forbidden to treat registered holder as owner

Nothing in this Act¹ shall be construed as forbidding a corporation:

(a) To recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner; or

(b) To hold liable for calls and assessments a person registered on its books as the owner of shares. Acts 1943, 48th Leg., p. 722, ch. 397, § 3.

¹ Articles 1358—1 to 1358—26.

Art. 1358—4. Title derived from certificate extinguishes title derived from separate document

The title of a transferee of a certificate under a power of attorney or assignment not written upon the certificate, and the title of any person claiming under such transferee, shall cease and terminate if, at any time prior to the surrender of the certificate to the corporation issuing it, another person, for value in good faith, and without notice of the prior transfer, shall purchase and obtain delivery of such certificate with the indorsement of the person appearing by the certificate to be the owner thereof, or shall purchase and obtain delivery of such certificate and the written assignment or power of attorney of such person, though contained in a separate document. Acts 1943, 48th Leg., p. 722, ch. 397, § 4.

Art. 1358—5. Persons who may effectually deliver certificate

The delivery of a certificate to transfer title in accordance with the provisions of Section 1,¹ is effectual, except as provided in Section 7,² though made by one having no right of possession and having no authority from the owner of the certificate or from the person purporting to transfer the title. Acts 1943, 48th Leg., p. 722, ch. 397, § 5.

¹ Article 1358—1

² Article 1358—7

Art. 1358—6. Indorsement effectual notwithstanding fraud, duress, mistake, revocation, death, incapacity or lack of consideration

The indorsement of a certificate by the person appearing by the certificate to be the owner of the shares represented thereby is effectual, except as provided in Section 7,¹ though the indorser or transferor:

(a) Was induced by fraud, duress or mistake, to make the indorsement or delivery; or

(b) Has revoked the delivery of the certificate, or the authority given by the indorsement or delivery of the certificate; or

(c) Has died or become legally incapacitated after the indorsement, whether before or after the delivery of the certificate; or

(d) Has received no consideration. Acts 1943, 48th Leg., p. 722, ch. 397, § 6.

¹ Article 1358—7

Art. 1358—7. Rescission of transfer

If the indorsement or delivery of a certificate:

(a) Was procured by fraud or duress; or

(b) Was made under such mistake as to make the indorsement or delivery inequitable; or

If the delivery of a certificate was made:

(c) Without authority from the owner; or

(d) After the owner's death or legal incapacity, the possession of the certificate may be reclaimed and the transfer thereof rescinded, unless:

(1) The certificate has been transferred to a purchaser for value in good faith without notice of any facts making the transfer wrongful; or

(2) The injured person has elected to waive the injury, or has been guilty of laches in endeavoring to enforce his rights.

Any court of appropriate jurisdiction may enforce specifically such right to reclaim the possession of the certificate or to rescind the transfer thereof and, pending litigation, may enjoin the further transfer of the certificate or impound it. Acts 1943, 48th Leg., p. 722, ch. 397, § 7.

Art. 1358—8. Rescission of transfer as affecting subsequent transfer by transferee in possession to good faith purchaser

Although the transfer of a certificate or of shares represented thereby has been rescinded or set aside, nevertheless, if the transferee has possession of the certificate or of a new certificate representing part or the whole of the same shares of stock, a subsequent transfer of such certificate by the transferee, mediately or immediately, to a purchaser for value in good faith, without notice of any facts making the transfer wrongful, shall give such purchaser an indefeasible right to the certificate and the shares represented thereby. Acts 1943, 48th Leg., p. 722, ch. 397, § 8.

Art. 1358—9. Delivery of unindorsed certificate imposes obligation to endorse

The delivery of a certificate by the person appearing by the certificate to be the owner thereof without the indorsement requisite for the transfer of the certificate and the shares represented thereby, but with intent to transfer such certificate or shares, shall impose an obligation, in the absence of an agreement to the contrary, upon the person so delivering, to complete the transfer by making the necessary indorsement. The transfer shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced. Acts 1943, 48th Leg., p. 722, ch. 397, § 9.

Art. 1358—10. Attempted transfer without delivery as promise to transfer

An attempted transfer of title to a certificate or to the shares represented thereby without delivery of the certificate shall have the effect of a promise to transfer and the obligation, if any, imposed by such promise shall be determined by the law governing the formation and performance of contracts. Acts 1943, 48th Leg., p. 722, ch. 397, § 10.

Art. 1358—11. Warranties on transfer of certificate or assignment of secured claim

A person who for value transfers a certificate, including one who assigns for value a claim secured by a certificate, unless a contrary intention appears, warrants:

(a) That the certificate is genuine;

(b) That he has a legal right to transfer it; and

(c) That he has no knowledge of any fact which would impair the validity of the certificate.

In the case of an assignment of a claim secured by a certificate, the liability of the assignor upon such warranty shall not exceed the amount of the claim. Acts 1943, 48th Leg., p. 722, ch. 397, § 11.

Art. 1358—12. Holder of certificate as security, by accepting payment of debt, does not warrant genuineness or value

A mortgagee, pledgee, or other holder for security of a certificate who in good faith demands or receives payment of the debt for which such certificate is security, whether from a party to a draft drawn for such debt, or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such certificate, or the value of the shares represented thereby. Acts 1943, 48th Leg., p. 722, ch. 397, § 12.

Art. 1358—13. Attachment or levy; new certificates

No attachment or levy upon shares of stock for which a certificate is outstanding shall be valid until such certificate be actually seized by the officer making the attachment or levy, or be surrendered to the corporation which issued it, or its transfer by the holder be enjoined. Except where a certificate is lost or destroyed, such corporation shall not be compelled to issue a new certificate for the stock until the old certificate is surrendered to it. Acts 1943, 48th Leg., p. 722, ch. 397, § 13.

Art. 1358—14. Creditor's remedies to reach certificate

A creditor whose debtor is the owner of a certificate shall be entitled to such aid from courts of appropriate jurisdiction, by injunction and otherwise, in attaching such certificate¹ or in satisfying the claim by means thereof as is allowed at law or in equity, in regard to property which cannot readily be attached or levied upon by ordinary legal process. Acts 1943, 48th Leg., p. 722, ch. 397, § 14.

¹ Probably should read "certificate".

Art. 1358—15. Lien or restriction must be stated on certificate

There shall be no lien in favor of a corporation upon the shares represented by a certificate issued by such corporation and there shall be no restriction upon the transfer of shares so represented by virtue of any by-laws of such corporation, or otherwise, unless the right of the corporation to such lien or the restriction is stated upon the certificate. Acts 1943, 48th Leg., p. 722, ch. 397, § 15.

Art. 1358—16. Alteration of certificate

The alteration of a certificate, whether fraudulent or not and by whomsoever made, shall not deprive the owner of his title to the certificate and the shares originally represented thereby, and the transfer of such a certificate shall convey to the transferee a good title to such certificate and to the shares originally represented thereby. Acts 1943, 48th Leg., p. 722, ch. 397, § 16.

Art. 1358—17. Lost or destroyed certificate

Where a certificate has been lost or destroyed, a court of competent jurisdiction may order the issue of a new certificate therefor on service of process upon the corporation and on reasonable notice by publication, and in any other way which the court may direct, to all persons interested, and upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient surety to be approved by the court to protect the corporation or any person injured by the issue of the new certificate from any liability or expense, which it or they may incur by reason of the original certificate remaining outstanding. The

court may also in its discretion order the payment of the corporation's reasonable costs and counsel fees.

The issue of a new certificate under an order of the court as provided in this section, shall not relieve the corporation from liability in damages to a person to whom the original certificate has been or shall be transferred for value without notice of the proceedings or of the issuance of the new certificate. Acts 1943, 48th Leg., p. 722, ch. 397, § 17.

Art. 1358—18. Law governing in cases not provided for by Act

In any case not provided for by this Act,¹ the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent, executors, administrators and trustees, and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall govern. Acts 1943, 48th Leg., p. 722, ch. 397, § 18.

¹ Articles 1358—1 to 1358—26.

Art. 1358—19. Construction of act

This Act¹ shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. Acts 1943, 48th Leg., p. 722, ch. 397, § 19.

¹ Articles 1358—1 to 1358—26.

Art. 1358—20. Indorsement

A certificate is endorsed when an assignment or a power of attorney to sell, assign, or transfer the certificate or the shares represented thereby is written on the certificate and signed by the person appearing by the certificate to be the owner of the shares represented thereby, or when the signature of such person is written without more upon the back of the certificate. In any of such cases a certificate is indorsed though it has not been delivered. Acts 1943, 48th Leg., p. 722, ch. 397, § 20.

Art. 1358—21. Owner of certificate

The person to whom a certificate was originally issued is the person appearing by the certificate to be the owner thereof, and of the shares represented thereby, until and unless he indorses the certificate to another specified person, and thereupon such other specified person is the person appearing by the certificate to be the owner thereof until and unless he also indorses the certificate to another specified person. Subsequent special indorsements may be made with like effect. Acts 1943, 48th Leg., p. 722, ch. 397, § 21.

Art. 1358—22. Act inapplicable to building and loan associations

It is expressly provided that this Act¹ shall not apply to shares, share accounts, certificates or pass books issued by a building and loan association organized under the laws of this state nor to shares, share accounts, certificates or pass books issued by a building and loan association organized under the laws of any state that is doing business in Texas, nor to shares, share accounts, certificates or pass books issued by a Federal Savings and Loan Association domiciled in this state. That the repealing section of this Act shall not be construed as repealing any section, part or parcel of the 1929 Building and Loan Code, as amended,² nor any Act of the Legislature pertaining to building and loan associations. Acts 1943, 48th Leg., p. 722, ch. 397, § 22.

¹ Articles 1358—1 to 1358—26.

² Articles 881a—1 to 881a—68; P.C. arts. 1136a—1 to 1136a—9.

Art. 1358—23. Definitions

(1) In this Act,¹ unless the context or subject matter otherwise requires:

“Certificate” means a certificate of stock in a corporation organized under the laws of this state or of another state whose laws are consistent with this Act.

“Delivery” means voluntary transfer of possession from one person to another.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee or as pledgee.

“Purchaser” includes mortgagee and pledgee.

“Shares” means a share or shares of stock in a corporation organized under the laws of this state or of another state whose laws are consistent with this Act.

“State” includes state, territory, district and insular possession of the United States.

“Transfer” means transfer of legal title.

“Title” means legal title and does not include a merely equitable or beneficial ownership or interest.

“Value” is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a certificate is taken either in satisfaction thereof or as security therefor.

(2) A thing is done “in good faith” within the meaning of this Act, when it is in fact done honestly, whether it be done negligently or not. Acts 1943, 48th Leg., p. 722, ch. 397, § 23.

¹ Articles 1358—1 to 1358—26.

Art. 1358—24. Existing certificates not affected

The provisions of this Act¹ apply only to certificates issued after the taking effect of this Act. Acts 1943, 48th Leg., p. 722, ch. 397, § 24.

¹ Articles 1358—1 to 1358—26.

Art. 1358—25. Short title

This Act¹ may be cited as the Uniform Stock Transfer Act. Acts 1943, 48th Leg., p. 722, ch. 397, § 26.

¹ Articles 1358—1 to 1358—26.

Art. 1358—26. Partial invalidity

If any part, section, subsection, paragraph, sentence, clause, phrase, or word in this Act¹ shall be held by any court 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 1943, 48th Leg., p. 722, ch. 397, § 27.

¹ Articles 1358—1 to 1358—26.

CHAPTER TEN—PUBLIC UTILITIES**1. TELEGRAPH****Art. 1416. [1231] [698] [622] Public ways: use**

Grants of rights of way over public lands and waters, see article 6020a.

4. GAS AND LIGHT

Art. 1436. Right of way

Grants of rights of way over public lands and waters, see article 6020a.

Rights of way over lands of penitentiary system, see article 6203d.

CHAPTER FIFTEEN—OIL, GAS, SALT, ETC.

Art. 1498. 1307 Fiscal Powers

Such corporation shall have the right to borrow money, to issue stock and preferred stock, to mortgage its franchises and property to secure the payment of any debt contracted for any purposes of such corporation, and shall possess all the rights and powers of corporations for profit in this state whenever the same may be applicable to corporations of this character. As amended Acts 1943, 48th Leg., p. 230, ch. 146, § 1.

Approved and effective April 19, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "No notes, bonds or other evidence of indebtedness heretofore issued by corporations organized under Chapter 15 of Title 32, Revised Civil Statutes of Texas, (1925), nor any mortgages, liens, or indentures securing same, shall be

invalid by reason of such notes, bonds or other evidence of indebtedness being in excess of the limitation heretofore provided in Article 1498, Revised Civil Statutes of Texas, (1925)."

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

CHAPTER SEVENTEEN—TRUST COMPANIES AND INVESTMENTS

LOAN AND BROKERAGE COMPANIES

[Art. 1524a. Corporations for loaning money and dealing in bonds and securities without banking and discounting privileges; regulations]

Sec. 1. This Act shall embrace corporations heretofore created and hereafter created having for their purpose or purposes any or all of the powers now authorized in Subdivisions 48, 49 or 50 of Article 1302, Revised Civil Statutes of Texas, 1925, and heretofore or hereafter created having in whole or in part any purpose or purposes now authorized in Chapter 275, Senate Bill Number 232 of the General and Special Laws of the Regular Session of the 40th Legislature. No such corporation shall act as agent or trustee in the consolidation of or for the purpose of combining the assets, business or means of other persons, firms, associations or corporations, nor shall such corporation as agent or trustee carry on the business of another. No such corporation shall offer for sale or sell its bonds, notes, certificates, debentures or other obligations unless it shall have an actual paid in capital of not less than Ten Thousand (\$10,000.00) Dollars.

Sec. 2. The Banking Commissioner of Texas shall examine or cause to be examined such corporations annually or oftener if he deems it necessary. Said corporation shall pay the actual traveling expenses, hotel bills, and all other actual expense incident to such examination and a fee not exceeding Twenty-five Dollars (\$25) per day per person engaged in such examination. If such corporation had not sold in Texas its bonds, notes, certificates, debentures, or other obligations and does not offer for sale or sell in Texas its bonds, notes, certificates, debentures or other obligations, the Banking Commissioner of Texas, in lieu of an ex-

amination shall accept a financial statement made on such form, containing such information as he desires. Such fees, together with any other fees, penalties or revenues collected by the Commissioner pursuant to the provisions of this Act or pursuant to other laws of this State relative to corporations under the supervision of the Banking Department, shall be paid by the Commissioner to the State Treasurer to the credit of the General Revenue Fund. The expenses of examination and of the Commissioner in enforcing the provisions of this Act shall be paid upon the certificate of the Commissioner by warrant of the Comptroller upon the State Treasury. As amended Acts 1943, 48th Leg., p. 126, ch. 96, § 1.

Approved and effective March 31, 1943. the Act should take effect from and after
Section 2 of the amendatory Act of 1943 its passage.
declared an emergency and provided that

Sec. 3. Refusal on the part of any such corporation to submit to an examination by the Banking Commissioner of Texas, or his representatives, or the withholding of information from the Banking Commissioner of Texas, or his representatives, shall constitute grounds for forfeiture of the charter of such corporation at the suit of the Attorney General upon the request of the Banking Commissioner of Texas.

Sec. 4. Such corporation that has sold in Texas its bonds, notes, certificates, debentures or other obligations or is offering for sale in Texas its bonds, notes, certificates, debentures or other obligations, shall publish in some newspaper of general circulation in the county where it has its principal place of business, on or before the 1st day of February 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 Twenty-five dollars (\$25) for filing. Provided, however, that the Banking Commissioner may, for good cause shown, extend the time of publication and filing not more than sixty (60) days.

Such corporation that has not sold in Texas its bonds, notes, certificates, debentures or other obligations and does not offer for sale or sell in Texas its bonds, notes, certificates, debentures or other obligations, shall file with the Banking Commissioner of Texas on or before the 1st 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, together with a fee of Ten Dollars (\$10) for filing, which report when so filed, shall not be open to the public but shall be for the information of the Banking Commissioner and his employees. Provided, however, that the Banking Commissioner may, for good cause shown, extend the time of publication and filing not more than sixty (60) days. The Banking Commissioner, or his authorized assistants or representatives, shall not make public the contents of said report, or any information derived therefrom, except in the course of some judicial proceedings in this State. As amended Acts 1943, 48th Leg., p. 125, ch. 95, § 1.

Approved March 31, 1943.
Effective 90 days after May 11, 1943 adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

TITLE 33—COUNTIES AND COUNTY SEATS

CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art.

1581^b. Additional law enforcement officers
[New].

Investment by political subdivisions of state in Defense Bonds or other United States obligations, see art. 1269J—3.

Art. 1580. 1373, 797, 684 Agents to contract for county

Counties of 140,000 to 220,000

Acts 1943, 48th Leg., p. 382, ch. 257, §§ 4-7, effective May 7, 1943 read as follows:

"Sec. 4. (a) In said counties in this state having a population of more than one hundred forty thousand (140,000) and less than two hundred twenty thousand (220,000) inhabitants according to the last preceding or any future Federal Census, where the Federal Government has authorized the construction of large synthetic rubber plants in addition to vast ship-building enterprises, additional duties have been placed upon county officers of such counties due to such construction, necessitating and making it economically necessary that there be a central purchasing agency for such counties, and therefore a majority of a board composed of the Judges of the District Courts and the County Judge shall appoint a County Purchasing Agent. The County Purchasing Agent shall hold office for a term of two (2) years unless removed for cause. He shall execute a bond in the sum of Ten Thousand (\$10,000.00) Dollars, payable to said county, for the faithful performance of his duties. He shall receive an annual salary of not less than Three Thousand (\$3,000.00) Dollars nor more than Forty-two Hundred (\$4200.00) Dollars, payable in equal monthly installments out of the County General Fund by warrant drawn on the County Treasurer by the County Auditor. Said Purchasing Agent may have such help, equipment, supplies and traveling expenses, with the approval of a majority of said Board of Judges, as they may deem advisable, the amount of expenses to be approved by a majority of said Board and paid out of the County General Fund by warrant drawn on the County Treasurer by the County Auditor.

"(b) All equipment, materials, and supplies, together with the repairs of same, required, used or to be paid for out of any County Fund, shall be purchased by the County Purchasing Agent, upon written specifications and upon requisitions submitted by the county official or department requiring same. So far as practicable, such purchases for any office or department shall be in amounts calculated to be adequate for one year's needs. Where the total consideration on any con-

tract is likely to be in excess of One Hundred Fifty (\$150.00) Dollars, purchases shall be made on the basis of the lowest and best bid, with the right to reject any or all bids, and a sufficient bidder's bond may be required. A complete record of bids and purchase contracts awarded shall be kept on file for not less than ten (10) years. In making such purchases the County Purchasing Agent shall contract in the name of the county.

"(c) When delivery is made on any purchase or repair work, the County Purchasing Agent shall secure from the county officer or department head receiving the same a receiving memorandum in triplicate, certifying that the equipment, materials, supplies, or repairs have been received in good order and according to specifications. Such receiving memorandum shall be attached to the respective invoice, rendered in triplicate, when such invoice is approved by the County Purchasing Agent. A copy of each of the receiving memorandum and the approved invoice shall be forwarded to the County Auditor, and a copy each shall be kept on file in the office of the County Purchasing Agent for not less than ten (10) years.

"(d) The County Purchasing Agent shall prepare and keep a perpetual inventory of all property of the county for each department and office. A copy of such inventory as of July 1st of each year shall be furnished the Commissioners Court and the County Auditor not later than the following July 20th. It shall be the duty of the County Purchasing Agent to transfer equipment, materials, and supplies from one department or office to another in the interest of efficiency and economy.

"(e) All purchases made by such Agent shall be paid for by warrants drawn by the County Auditor on the County Treasurer as now provided by law.

"(f) It shall be unlawful for any person to make any purchases of equipment, materials, supplies, or repairs for the same, other than the County Purchasing Agent, and no warrant shall be approved by the County Auditor in payment for any purchase not made by such Agent.

"(g) Any person violating any of the provisions of Section 4 of this Act shall be deemed guilty of a misdemeanor, and

upon conviction thereof shall be fined not less than Two Hundred (\$200.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or imprisoned in the county jail of said county for not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment.

"Sec. 5. If any part of this Act shall be held to be unconstitutional, then all the Act shall be unconstitutional. The Legislature hereby declares that it would not have passed the remaining parts of this Act if it had known that such part or parts would be declared unconstitutional.

"Sec. 6. All laws or parts of laws in conflict with any provision of this Act are hereby repealed, unless this Act be invalid.

"Sec. 7. The fact that there exists, and the Legislature so finds to exist, conditions in certain counties wherein there are large concentrations of members of the armed forces of the United States and wherein there are situated large industrial and defense industries, all of which requires additional work and effort on the part of the County Commissioners in building and maintaining adequate laterals roads; that many other duties and bur-

dens have been placed on the County Commissioners in the counties herein specified; the fact that County Commissioners in counties affected by this Act are now paid salaries not commensurate with the services and duties performed by them; the fact that certain counties have been unable to secure the services of a person possessing the necessary training, skill and experience to valuate, for tax purposes, industrial properties, real and personal properties and interests therein for the totally inadequate salary heretofore provided for by law; the fact that certain counties have been unable to obtain trained and experienced officials to handle purchasing for the small salaries now provided because of the high salaries offered by industrial and war industries located therein; the fact that all experience confirms the practice of uniform purchasing procedure, and the crowded condition of the calendar, create an emergency and an imperative public necessity that the Constitutional Rule requiring that bills be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Art. 1581b. Additional law enforcement officers

Section 1. In all counties in this state having five thousand (5,000) or more cattle, sheep and goats rendered for taxation, such counties may employ certain additional law enforcement officers as hereinafter provided.

Sec. 2. To aid in the enforcement of all penal laws of this state, and ferretting out and detecting any violation thereof, the Commissioners Court of counties having five thousand (5,000) or more cattle, sheep, and goats rendered for taxation may, if they deem it necessary, and are hereby authorized to, employ 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 necessary, and shall fix the compensation; provided, however, no such person, or persons, shall be paid in excess of Five (\$5.00) Dollars per day, while in actual service. 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.

Sec. 3. If the Commissioners Court of several counties shall determine that it would be more economical and efficient to employ one or more men to serve the several counties, they may do so; provided, however, that the individual or individuals employed shall receive the compensation set out in Section 2 of this Act and that the salary and expenses of such officer or officers shall be pro-rated among the counties. Acts 1943, 48th Leg., p. 389, ch. 262.

Approved May 7, 1943.

Effective 90 days after May 11, 1943 date of adjournment.

Section 4 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to provide, in all counties having five thousand (5,000) or more cattle, sheep, and goats rendered for taxation,

for the employment of certain law enforcement officers; providing for their duties and reports; providing that one or more officers may serve more than one county and that where such counties agree and employ one or more officers to serve several counties, the compensation may be pro-rated among the counties; and declaring an emergency. Acts 1943, 48th Leg., p. 389, ch. 262.

CHAPTER SIX—COUNTY BOUNDARIES

Art. 1606. [1400] [822] Boundaries as established, adopted, and acts creating continued in force

Territory acquired under convention between United States and Mexico, extension of county lines to Rio Grande, see Article 5415b.

TITLE 34—COUNTY FINANCES

2. COUNTY AUDITOR

Art.

1645d—4. New; Repealed.

Investment by political subdivisions of state in Defense Bonds or other United States obligations, see article 1269j—3

2. COUNTY AUDITOR

Art. 1645d—4. Repealed. Acts 1943, 48th Leg., p. 458, ch. 307, § 1.
 Eff. 90 days after May 11, 1943, date of adjournment

Article, derived from Acts 1941, 47th Leg., p. 724, ch. 450, § 1, related to compensation of county auditors and purchasing agents in counties of 20,442 to 20,450.

TITLE 35—COUNTY LIBRARIES

2. LAW LIBRARY

Art.

1702a. New; Repealed.

1702a—1. County law libraries in certain counties; management [New].

2. LAW LIBRARY

Art. 1702a. Repealed. Acts 1943, 48th Leg., p. 297, ch. 192, § 4. Eff. 90 days after May 11, 1943, date of adjournment

Article, derived from Acts 1931, 42nd Leg., Spec.L., p. 457, ch. 236, § 1; Acts 1941, 47th Leg., p. 521, ch. 317, § 1, related to county law libraries in certain counties. For 1943 law providing for law libraries in counties having 8 or more district courts and 3 or more county courts, see article 1702a—1.

Art. 1702a—1. County law libraries in certain counties; management

Section 1. For the purpose of establishing and maintaining a 'County Law Library' for each county coming within the terms of this Act there shall be charged as costs, and taxed, collected, and paid as other costs, the sum of One (\$1.00) Dollar in each civil case, except suits for delinquent taxes, hereafter filed in every County or District Court, in each county having eight (8) or more District Courts and three (3) or more County Courts including County Courts at Law. Provided, however, that in no case shall the county be liable for said cost in any civil cases. Such costs shall be collected by the Clerk of the respective Courts, and when collected shall be paid to the County Treasurer, to be kept by him in a separate fund to be known as the 'County Law Library Fund'; such fund shall be administered by the Commissioners Court for the purchase, lease or maintenance of a law library, and furniture and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants in such courts, and for the payment of salaries to employees to be appointed by the Commissioners Court; the Commissioners Court of counties affected by this Act shall make rules for the use of books in said library, and shall provide suitable space and shelving for housing same.

The salary of the custodian or librarian and such other employees or assistants as may be necessary shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act.

The Commissioners Court of such counties may vest the management of such library in a committee to be selected by the Bar Association of such county, but the acts of such committee shall be subject to the approval of the Commissioners Court.

Sec. 2. The Provisions of this Act may be adopted by any county in this state having five (5) or more District Courts, by the passage of a Resolution to that effect by the Commissioners Court of such county at a regular session thereof with all members of such Court present.

Sec. 3. If any part or parts of this Act shall be held 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 invalid part or parts thereof would be so declared unconstitutional. Acts 1943, 48th Leg., p. 297, ch. 192.

Approved April 29, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 4 of the Act of 1943 repealed article 1702a and all conflicting laws and parts of laws.

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

Section 5 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing for the establishment by purchase or lease, and the maintaining of a County Law Library in certain counties; providing for the creation of a County Law Library Fund; providing for the collection of costs in civil cases for the benefit of such fund, and for the administration of such fund; providing for the appointment of a custodian or librarian and assistants, and for the payment there-

for out of such fund; providing that the Commissioners Court shall provide space and housing for such library, and make rules for the use thereof; providing for the management of such library by a committee under the approval of the Commissioners Court; providing a savings and severability clause; repealing House Bill No. 569, Acts Regular Session, 47th Legislature, and all laws in conflict herewith to the extent of the conflict only; and declaring an emergency. Acts 1943, 48th Leg., p. 297, ch. 192.

TITLE 37—COURT—SUPREME

CHAPTER TWO—CLERK, EMPLOYEES AND REPORTER

Art. 1719. 1531, 951, 1018 Vacancy in vacation

Conduct of business by assistants or deputies when physical vacancy occurs in public office, see article 6252—1.

Art. 1722. 1537—8 Library; transfer of books to University Law School library

(a) The library of the Supreme Court shall be open to the public under such rules as the Court may prescribe. The books shall not be removed from the library room, except by the Judges of the Courts and by members of the Legislature during its sessions, upon their receipt for the same. The clerk of the Supreme Court shall be librarian in charge of the library of said Court. The Chief Justice shall appoint an assistant librarian who may also act as marshal for said Court when required by the Court. The assistant librarian shall have immediate charge of the library and shall keep it open, except Sundays and holidays, from eight A. M. to five P. M., and shall make catalogs of the books and keep them in order.

(b) The Supreme Court of Texas is authorized to transfer any books, papers, or publications located in and belonging to the Supreme Court library in the State Capitol, from such library to the library of the Law School of the University of Texas. Such transfer shall be made only on the unanimous vote of the Justices of such Court. The Court by a majority vote may recall any books, papers, or publications transferred by authority of this Act. As amended Acts 1943, 48th Leg., p. 106, ch. 78, § 1.

Approved and effective March 25, 1943.
Section 2 of the Act of 1943 declared an emergency and provided that the Act

should take effect from and after its passage.

CHAPTER THREE—TERMS AND JURISDICTION

Art.

1738a. Direct appeals in injunction cases involving validity of statute or administrative order [New].

Art. 1735. 5732, 4861 To issue only by Supreme Court

The Supreme Court only shall have power, authority or jurisdiction to issue the writ of mandamus or injunction or any other mandatory or compulsory writ or process against any of the officers of the executive departments of the government of this state and also the Board of County and District Road Indebtedness to order or compel the performance of any act or duty which, by the laws of this state, they, or either of them, are authorized to perform, whether such act or duty be judicial, ministerial or discretionary. As amended Acts 1943, 48th Leg., p. 354, ch. 232, § 1.

Approved and effective May 6, 1943.
Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

Art. 1738a. Direct appeals in injunction cases involving validity of statute or administrative order

From and after January 1, 1944, appeals may be taken direct to the Supreme Court of this State from any order of any trial court granting or denying an interlocutory or permanent injunction on the ground of the constitutionality or unconstitutionality of any statute of this State, or on the ground of the validity or invalidity of any administrative order issued by any State Board or Commission under any statute of this State. It shall be the duty of the Supreme Court of this State to prescribe the necessary rules of procedure to be followed in perfecting such an appeal. Acts 1943, 48th Leg., p. 14, ch. 14, § 1.

Approved and effective Feb. 16, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Constitutional provision authorizing law providing for direct appeal, see Const. art. 5, § 3—b.

Title of Act:

An Act authorizing appeals in certain cases direct from trial courts to the Supreme Court; authorizing the Supreme Court to prescribe rules of procedure for such appeals; and declaring an emergency. Acts 1943, 48th Leg., p. 14, ch. 14.

TITLE 39—COURTS OF CIVIL APPEALS

CHAPTER TWO—CLERKS AND EMPLOYÉS

Art. 1827. 1596—7 Appointment of clerk

Conduct of business by assistants or deputies when physical vacancy occurs in public office, see article 6252—1.

CHAPTER EIGHT—WRIT OF ERROR TO SUPREME COURT

Art. 1883a. Transferred to Article 2249a

The provisions of this article, derived from Acts 1939, 46th Leg., p. 59, are now set out under article 2249a.

TITLE 41—COURTS—COUNTY
CHAPTER TWO—COUNTY CLERK

Art. 1939. Armed forces or Auxiliaries, records of official discharges from

Each County Clerk shall record in a well-bound book the official discharge of each member of the Armed Forces of the United States of America or the Armed Force Reserve of the United States of America or the Auxiliary of either Armed Forces of the United States of America or the Armed Force Reserve of America who have served in the Armed Forces of the United States of America since 1916. There shall be no charge made for the recording and keeping of these records. As amended Acts 1943, 48th Leg., p. 187, ch. 107, § 1.

Approved and effective April 6, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

Art. 1939a. Certified copies of records furnished free to ex-service men and ex-members of auxiliaries to support claims against United States

Section 1. That from and after the effective date of this Act, all County Clerks, District Clerks, and other officials in this State who are required to issue any form of certificate or any copy or copies of instruments necessary as proof to establish any claim or claims of any ex-service men of the Federal Government or any ex-members of the Auxiliaries to the Armed Forces of the United States Government, shall issue such certificate, and likewise certified copies of any instrument necessary to prove any fact or establish any claim of such ex-service men or such ex-members of the Auxiliaries, free of any charge, and shall include the establishing of compensation status, and any other necessary fact to be established to aid and assist such ex-service men and ex-members of the Auxiliaries in completing the record of such service when necessary or required in the establishment of claims and necessary service status, in either World War I, the Spanish-American War, World War II, or any other active service, where such service was rendered, and where the person would, on proper proof, be entitled to compensation, insurance, or any other form of adjusted settlement for service rendered to the United States Government by such ex-service men or ex-members of the Auxiliaries. The County Clerk, District Clerk, or other officials issuing such certificates or certified copies of instruments, shall not be liable for any settlement for any such reduction, and the same shall not be counted as fees collected and chargeable to such office, and shall form no part of the maximum fees of such office. All of the provisions of Section 1 hereof, shall inure to the heirs at law of such ex-service men and ex-members of the Auxiliaries, where the proof is necessary to establish the claim emanating through or under such ex-service men or ex-members of the Auxiliaries.

Section 2. Ex-service men and ex-members of the Auxiliaries, as meant in this Act, shall include all those persons recognized by the United States Government as being entitled to adjustment compensation, or other form of settlement for service in time of war. As amended Acts 1943, 48th Leg., p. 267; ch. 166, §§ 1, 2.

Approved and effective April 26, 1943.

Section 3 of the acts of 1939 and 1943 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.

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

Art.

1970—327. New; Repealed.
1970—328. County court of Morris County; jurisdiction [New].

Art.

1970—329. Judge of County Court at Law in counties under 500,000 may act for County Judge in certain cases [New].

Art. 1970—324. County Court at Law of Travis County created

Sec. 16. From and after the passage of this Act the Judge of the County Court at Law of Travis County shall receive a salary of Four Thousand, Eight Hundred Dollars (\$4,800) per annum, to be paid out of the County Treasury on the order of the Commissioners Court, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Travis County shall assess the same fees as are now prescribed or may be established by law, relating to the County Judge's 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 the salary as above specified in this Section. As amended Acts 1943, 48th Leg., p. 312, ch. 203, § 1.

Amendment of 1943, which affected section 16 only, was filed without the Governor's signature, April 30, 1943. Effective April 30, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1970—327. Repealed. Acts 1943, 48th Leg., p. 689, ch. 38, § 6. Eff. 90 days after May 11, 1943, date of adjournment.

Article, derived from Acts 1941, 47th Leg., p. 631, ch. 380, related to Judge of County

Court at Law in counties under 350,000, acting for County Judge in certain cases.

Art. 1970—328. County court of Morris County; jurisdiction

Section 1. In addition to the jurisdiction heretofore conferred by law upon the County Court of Morris County, Texas, and the County Judge of Morris County, Texas, the said County Court shall have jurisdiction within Morris County of all criminal matters and causes of misdemeanor over which the District Court of Morris County, Texas, now has jurisdiction, and the jurisdiction of said courts over such matters shall be concurrent; provided that the jurisdiction of the District Court of Morris County, Texas, shall be and remain as now fixed by law and be in nowise affected by this Act; and provided further, that the jurisdiction hereby conferred upon the County Judge of Morris County, Texas, shall extend to and only to those cases in which pleas of guilty are entered by the defendant in any cases of misdemeanor filed in said court.

Sec. 2. The County Judge of Morris County, Texas, shall receive a fee of Three (\$3.00) Dollars for each and every case tried before him in which a plea of guilty is entered, and the fees of the other officers of the Court shall be and remain as is now provided by the laws of this state. Acts 1943, 48th Leg., p. 411, ch. 278.

Approved and effective May 8, 1943.

Section 3 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to enlarge the jurisdiction of the County Court of Morris County, Texas, in criminal cases to enable the County Judge

of Morris County, Texas, to accept pleas of guilty in all cases of misdemeanor; providing for fees to County Judge in certain cases; providing fees for other officers of the court shall be the same as now provided by laws of the state; and declaring an emergency. Acts 1943, 48th Leg., p. 411, ch. 278.

Art. 1970—329. Judge of County Court at Law in counties under 500,000 may act for County Judge in certain cases

Section 1. That the Judge of any County Court at Law in any county having a population of less than five hundred thousand (500,000) inhabitants according to

the last preceding, or any future Federal Census, may act for the County Judge of the county in any juvenile, lunacy, probate and condemnation proceeding or matter and also may perform for the County Judge any and all other ministerial acts required by the laws of this State of the County Judge, during the absence, inability or failure of the County Judge for any reason to perform such duties; and any and all such acts thus performed by the Judge of the County Court at Law, while acting for the County Judge, shall be valid and binding upon all parties to such proceedings or matters the same as if performed by the County Judge. Provided that the powers thus given the Judges of the County Courts at Law of this State shall extend to and include all powers of the County Judge except his powers and duties in connection with the transaction of the business of the county, as presiding officer of the Commissioners Court and as the budget officer for the Commissioners Court.

Sec. 2. That the absence, inability or failure of the County Judge to perform any of the duties hereinabove set forth shall be certified by the County Judge or the Commissioners Court to the Judge of any such County Court at Law, and when such certification is for the purpose of conferring powers to do some judicial act, such certificate shall be spread upon the minutes of the appropriate Court.

Sec. 3. That notwithstanding the additional powers and duties conferred upon the Judges of the County Courts at Law of this State no additional compensation or salary shall be paid to them, but the compensation or salary of such Judges of the County Courts at Law shall remain the same as now, or as may be hereafter, fixed by law.

Sec. 4. That it is not intended by this Act to repeal any law providing for the election and/or appointment of a special County Judge, but this Act shall be cumulative of, and in addition to, such law or laws.

Sec. 5. That if any part, section, subsection, paragraph, sentence, clause, phrase, or word, of this Act shall be held by the Courts to be unconstitutional or invalid, such holding shall not in any manner affect the validity of the remaining portions of this Act. Acts 1943, 48th Leg., p. 689, ch. 382.

Approved May 17, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 6 of the Act of 1943 repealed article 1970—327.

Section 7 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing that Judges of the County Courts at Law in counties of less than five hundred thousand (500,000) population may act for the County Judge of the county in any juvenile, lunacy, probate and condemnation proceeding or matter, and also may perform any and all other ministerial acts required by law of the County Judge, during the absence, inability or failure of the County Judge for any reason to perform such duties; providing that all such acts performed by the Judge of the County Court at Law for the County Judge shall be valid and binding the same as if performed by the County Judge; providing that the powers given to the Judges of the County Courts at Law shall extend to and include all powers of the County Judge except his powers

and duties in connection with the transaction of the business of the county, as presiding officer of the Commissioners Court and as budget officer; providing that the absence, inability or failure of the County Judge to perform any of said duties set forth in this Act shall be certified by the County Judge or the Commissioners Court to the Judges of any such County Court at Law; providing that for the additional powers and duties conferred upon the judges of the County Courts at Law no additional compensation shall be paid to them; providing that this Act shall be cumulative of and in addition to the law authorizing the election and/or appointment of a special County Judge; providing that if any part, section, subsection, paragraph, sentence, clause, phrase, or word of this Act shall be held unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act; and expressly repealing House Bill No. 465, Chapter 380, Acts of the Regular Session of the Forty-seventh Legislature; and declaring an emergency. Acts 1943, 48th Leg., p. 689, ch. 382.

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER ONE—INSTITUTION, PARTIES AND VENUE

4. VENUE

Art. 1995. 1830, 1194, 1198 Venue, general rule

23. Corporations and Associations. Suits against a private corporation, association, or joint stock company may be brought in the county in which its principal office is situated; or in the county in which the cause of action or part thereof arose; or in the county in which the plaintiff resided at the time the cause of action or part thereof arose, provided such corporation, association or company has an agency or representative in such county; or, if the corporation, association, or joint stock company had no agency or representative in the county in which the plaintiff resided at the time the cause of action or part thereof arose, then suit may be brought in the county nearest that in which plaintiff resided at said time in which the corporation, association or joint stock company then had an agency or representative. Suits against a railroad corporation, or against any assignee, trustee or receiver operating its railway, may also be brought in any county through or into which the railroad of such corporation extends or is operated. Suits against receivers of persons and corporations may also be brought as otherwise provided by law. As amended Acts 1943, 48th Leg., p. 350, ch. 228, § 1.

Approved May 6, 1943.

Effective Jan. 1, 1944.

Section 2 of the amendatory act of 1943 read as follows: "This Act shall not affect any litigation pending at the effective date

of this Act, which effective date shall be January 1, 1944."

Section 3 declared an emergency and provided that the Act should take effect from and after Jan. 1, 1944.

CHAPTER THREE—CITATION

Art. 2031a. Power of attorney designating resident for service of process; penalty for failure to file

Section 1. No foreign corporation shall transact or do any business in this State without first having filed in the office of the Secretary of State a power of attorney designating some individual who is a resident citizen of this State, as its service agent, upon whom process may be served in all suits, proceedings and causes of action, pending or hereafter filed in this State, in which said foreign corporation is a party or is to be made a party.

Sec. 2. The power of attorney required by this Act shall, in addition to stating the name and address of the agent, also stipulate that said agent is appointed as the corporation's service agent in Texas, and that said foreign corporation consents to the service of process upon said agent and that he shall be deemed as the service agent of said corporation for all intents and purposes as contemplated by the Statutes requiring such designation and appointment; said power of attorney shall be acknowledged by the President or Vice President, attested by the Secretary and acknowledged in manner and in form as is required in the acknowledgment of deeds in the State of Texas; said power of attorney shall, when executed, be filed in the office of the Secretary of State and shall become a part of the records in said office.

Sec. 3. Such foreign corporation that shall transact or do any business in this State shall have and keep continually some resident agent, empowered as aforesaid, during all the time such corporation shall transact or do any business within this State, and service of any process, pleading, notice or other paper upon him shall be taken and held as due service on said corporation. Such corporation may change its agent from time to time by filing and recording with the Secretary of State a new appointment, stating the change of such agent or stating his change of address within the State of Texas; and in the event such foreign corporation shall withdraw from this State or cease to transact or do any business herein, it shall continue to keep and maintain such agent within this State upon whom service of process, pleadings and papers may be made, until the statutes of limitation shall have run against anyone bringing an action against said corporation, which accrued prior to its withdrawal from this State. In case such agent cannot be found at the address given in said power of attorney, or in case said corporation shall revoke the authority of its designated agent or fail to keep and maintain such agent within this State, after its withdrawal from this State and prior to the time when the statutes of limitation would have run against causes of action accruing against it, then and in that event, service of process, pleading and papers of such actions may be made upon the Secretary of State of the State of Texas, and the same shall be held as due and sufficient service upon such corporation.

Sec. 4. Whenever process against a foreign corporation is served upon the Secretary of State, said service shall be made by delivering to the Secretary of State, or to the Assistant Secretary of State, duplicate copies of such process, and there shall also be delivered to the Secretary of State, or Assistant Secretary of State, a statement of the address of the home office of such corporation to which notice and a copy of such process shall be sent, whereupon service of such process upon such corporation shall be deemed to be complete and shall constitute valid service on such corporation. Upon receipt of such process the Secretary of State shall forthwith forward to said corporation by registered mail a copy of such process; provided, however, that failure of the Secretary of State to give such notice or to mail copies of such process shall not affect the validity of said service. The certificate of the Secretary of State, under his official seal, of such service shall be competent and sufficient proof thereof. The Secretary of State shall keep a record of all process served upon him and shall record therein the time of said service and his action in respect thereto.

Sec. 5. If any corporation which is required by the terms of this Act to file the power of attorney and designate a service agent and to keep and maintain such agent or his successor within this State at the address designated in such power of attorney as provided by this Act, shall fail to do so, then and in such event:

(a) Each of its acts in this State shall, as to it, be unlawful and void and none of such acts shall, as to it, be valid; and it shall be incapable in this State of receiving the benefit of exercising in its behalf or enjoying any right, power, privilege or immunity that shall not already have accrued, provided that none of its acts done subsequently to the filing of such a power of attorney, though such filing be late, shall be affected by the foregoing provisions, nor in case of such late filing shall the incapacity affected by the foregoing provisions apply to any right, power, privilege or immunity that shall have wholly arisen and accrued after such filing.

(b) Such corporation shall be incapacitated to maintain any suit or legal proceedings in any Court in this State upon any demand whether arising out of contract or tort.

(c) Such corporation shall be liable to the State of Texas in the penal sum of Two Hundred Dollars (\$200), per month for each and every month in which it shall have so failed to file any such power of attorney, same to be recoverable by the Attorney General in the name of the State of Texas, in any Court of competent jurisdiction in Travis County, Texas.

(d) Such corporation, by doing any act within this State, shall be deemed to have appointed the Secretary of State and his successors in office, to all intents, effects and purposes as if it had duly executed such power of attorney.

Sec. 6. Nothing herein contained shall be construed as repealing any Statute in force in this State in reference to service of process on foreign corporations, or in reference to the qualifying of such corporations to do business in this State, or in reference to the liability of such corporation for penalties for violating the laws of this State, but this Act shall be cumulative of all existing Statutes. Service of process in all suits against foreign corporations may be had as is now provided by law, or as provided in this Act, or by all such methods. The terms of this Act shall also apply to suits and actions for penalties against such corporations by this State or its officers.

Sec. 7. If any paragraph, section or subsection of this Act shall be held or deemed invalid or unconstitutional, such invalid or unconstitutional part or parts shall not in any manner affect the remaining paragraph, section or subsection, but all such remaining parts shall be held to be expressive of the wish of the Legislature, regardless of the invalidity of any paragraph, section or subsection hereof. As amended Acts 1943, 48th Leg., p. 673, ch. 376, § 1.

Approved and effective May 27, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER FOUR—COSTS AND SECURITY THEREFOR

Art. 2075. 1927 Taxing stenographer's fees; reporting argument of counsel

The clerks of all courts having official reporters shall tax as costs in each civil case where an answer is filed, and a record or any part thereof is made of the evidence in said case by the official reporter, except suits to collect delinquent taxes, a stenographer's fee of Three Dollars (\$3.00). Said fee shall be paid as other costs in the case, and paid by said clerk, when collected, into the General Funds of the county in which said court sits; provided, however, that no stenographer's fee shall be taxed as costs in any civil case where no record or any part thereof is made of the evidence in the case by the official reporter. Provided further that in all cases where a fee is authorized to be paid by this Act, the said official court reporter shall be required to report argument of counsel, when requested by either side, and said court reporter shall in no case charge for such services more than Five Dollars (\$5.00), provided further that in case said report of argument is required to be transcribed then said court reporter may charge the amount per page as is now allowed for transcribing any other part of said record. As amended Acts 1943, 48th Leg., p. 120, ch. 90, § 1.

Approved March 29, 1943.

Effective 90 days after date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

CHAPTER SEVEN—THE JURY

2. JURY COMMISSIONERS

Art. 2107. 5128-29-30-31 Duties of jury commissioners

The Judge shall instruct said Commissioners as to their duties and designate to them the number of weeks for which they shall select petit jurors, and the number for each week. They shall retire in charge of the sheriff to some suitable room and be kept free from intrusion during their session, and shall not separate until they complete their duties. The clerk shall furnish them with all necessary stationery, and with a list of those appearing from the records of the Court to be exempt or disqualified from serving on the petit jury at each term, and shall also deliver to them the envelope required by law for the placing therein of the names selected, and take their receipt therefor showing whether or not the seal remained unbroken. The last assessment roll of the county shall be furnished them by the legal custodian of the same. As amended Acts 1943, 48th Leg., p. 175, ch. 100, § 1.

Approved and effective April 2, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

Art. 2112. Certified lists delivered; filing

The several lists of names drawn shall be certified under the hands of the Commissioners to be the lists drawn by them for the said several weeks and shall be sealed in separate envelopes endorsed 'List No. _____ of the petit jurors drawn on the _____ day of _____, 19____, for the _____ Court of _____ County,' (filling in the blanks properly and numbering the envelopes consecutively from one up) and the Commissioners shall write their names across the seals of the envelopes and deliver them to the Judge, who shall deliver them to the Clerk or to one of his deputies in open court, and the Clerk shall then immediately file same away in some safe and secure place in his office. As amended Acts 1943, 48th Leg., p. 175, ch. 100, § 1.

Approved and effective April 2, 1943.

Section 2 of the amendatory Act of 1943 that the Act should take effect from and after its passage.

3. JURY FOR THE WEEK

Art. 2117. [5159-60] Summoning jurors

At any time when the Judge of the County or District Court needs a jury for any particular week of such Court, he shall notify the Clerk of such Court to open the next consecutive unopened list of jurors in his possession, and shall direct him as to the date for which such jurors shall be summonsed. Such notice shall be given to the Clerk within a reasonable time prior to the time when such jurors are to be summonsed. The Clerk shall immediately note on the list the date for which the jurors are to be summonsed, and deliver said list to the sheriff. On receipt of such list, the sheriff shall immediately notify the several persons named therein to be in attendance on Court on the date so designated by the Judge. As amended Acts 1943, 48th Leg., p. 175, ch. 100, § 1.

Approved and effective April 2, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

CHAPTER 12.—APPEAL AND WRIT OF ERROR

Art. 2249a. Party participating in actual trial; writ of error review by Court of Civil Appeals

Section 1. No party who participates either in person or by his attorney in the actual trial of the case in the trial court shall be entitled to review by the Court of Civil Appeals through means of writ of error.

Sec. 2. All laws and parts of laws, insofar as they conflict with this Act, are repealed. Writ of error shall continue to be available under the rules and regulations of the law to a party who does not participate in the trial of the case in the trial court. Acts 1939, 46th Leg., p. 59.

Section 3 makes it effective Jan. 1, 1940 and section 4 declared an emergency.

Title of Act:

An Act providing that no party who participates either in person or by his attorney in the actual trial of the case in the trial court shall be entitled to review by the Court of Civil Appeals through means of writ of error; providing for a repeal of all laws

and parts of laws insofar as they conflict with this Act or repeal; providing that writ of error shall continue to be available under the rules and regulations of the law, to a party who does not participate in the trial of the case in the trial court; providing for the effective date of this Act, and declaring an emergency. Acts 1939, 46th Leg., p. 59.

Art. 2250. 2079 Appeal from interlocutory order

An appeal shall lie from an interlocutory order of the District, County Court at Law, or County Court:

1. Appointing a receiver or trustee in any cause.
2. Overruling a motion to vacate an order appointing a receiver or trustee in any case. As amended Acts 1943, 48th Leg., p. 456, ch. 305, § 1.

Approved and effective May 10, 1943. Section 2 of the amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

CHAPTER 13.—GENERAL PROVISIONS

3. OFFICIAL COURT REPORTER		Art.
Art. 2326g.	Salaries of official shorthand reporters in District and County Courts at Law in counties over 225,000 [New].	2326h. Apportionment of expenses and salaries of reporters among several counties [New]. 2327a—1. Apportionment of reporter's salary among counties [New].

3. OFFICIAL COURT REPORTER

Art. 2326g. Salaries of official shorthand reporters in District and County Courts at Law in counties over 225,000

That the Official Shorthand Reporter of each District Court and County Court at Law in each county in the State of Texas having a population in excess of two hundred and twenty-five thousand (225,000) according to the last preceding or any future Federal Census, shall receive a salary of Three Thousand, Six Hundred Dollars (\$3,600) per annum, in addition to the compensation for transcription fees as provided by law. Said salary shall be paid monthly on approval of the Judge of

such Court in the manner provided by law. Acts 1943, 48th Leg., p. 335, ch. 215, § 1.

Filed without the Governor's signature, May 3, 1943.

Effective May 3, 1943.

Section 2 of the Act of 1943 repealed 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 providing for the compensation

of the Official Shorthand Reporter of certain Courts in all counties in the State of Texas containing a population in excess of two hundred and twenty-five thousand (225,000) inhabitants according to the last preceding or any future Federal Census; providing manner of payment; repealing all laws in conflict herewith; and declaring an emergency. Acts 1943, 48th Leg., p. 335, ch. 215.

Art. 2326h. Apportionment of expenses and salaries of reporters among several counties

In each Judicial District in this State in which the terms of Court do not operate on a continuous term basis and in which there is more than one county, the salaries and expenses of the official Court reporter shall be paid by the respective counties as provided herein. Each of the counties within such District shall pay that portion of the expenses and salaries of the official Court reporter which the population of the county, according to the last preceding Federal Census, bears to the total population of the counties comprising the Judicial District. Acts 1943, 48th Leg., p. 482, ch. 322, § 1.

Approved and effective May 13, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the apportionment

of the payment of expenses and salaries of the official Court reporters in all Judicial Districts having more than one county; providing that this does not apply where the terms of Court operate on a continuous term basis; and declaring an emergency. Acts 1943, 48th Leg., p. 482, ch. 322,

Art. 2327a—1. Apportionment of reporter's salary among counties

Where any Judicial District in this State is composed of more than one county, and the District Court thereof has successive terms in either of such counties throughout the year, without more than two (2) days intervening between any of such terms, the salary of the official shorthand reporter of such District shall be paid by the several counties of the District, the same to be apportioned among such counties in proportion to their population according to the latest United States decennial census; provided that where such county is in two (2) different Judicial Districts, either one of which is composed of more than one county, in calculating such county's proportion of liability for the salary of the official shorthand reporter in any such District containing more than one county, such county's population shall be counted at one-half of its actual population as shown by the last preceding United States decennial census. Acts 1943, 48th Leg., p. 283, ch. 179, § 1.

Approved and effective April 27, 1943.

Section 2 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the apportionment of the cost of the salary of the official shorthand reporter in Judicial Districts of this State composed of more than one

county, where the Court in either of such counties has successive terms without more than two (2) days intervening between any of such terms; making provision for prorating a county's share where such county is in two different Judicial Districts either of which is composed of more than one county; and declaring an emergency.

TITLE 43—COURTS—JUVENILE

Art.

2338—1. Delinquent children; Juvenile court established in each county; jurisdiction; transfer of cases; custody [New].

Art. 2329. Repealed. Acts 1943, 48th Leg., p. 313, ch. 204, § 24. Eff. 60 days after May 1, 1943, date of approval

Delinquent children, original jurisdiction in proceedings involving, see article 2338—1.

Art. 2337. Custody of Child

In case any child is adjudged to be dependent or neglected under this title then such parents or guardian shall thereafter have no right over or to the custody, services or earnings of said child except upon such conditions in the interest of such child as the Court may impose, or where, upon proper proceedings, such child may lawfully be restored to the parents or guardian.

It is further provided that the Juvenile Court in which the child has been adjudged dependent or neglected, may, after giving the parent or other responsible person a reasonable opportunity to be heard, adjudge that such parent or other responsible person shall pay in the manner directed by the Court such sum as will in whole or in part support such child whether or not the child is committed to the custody of his own parent or guardian, or whether to any other person, agency, or institution. The Court shall have full power to enforce said judgments for support by civil contempt proceedings after ten (10) days notice to such parent, guardian or other person responsible for the care and support of the child, of his or her, or of their failure or refusal to carry out the terms of such an order for support. The Court shall have power and authority to alter or change such judgments, or suspend the same, as the facts and circumstances and justice may require, upon notice to such parent as above provided for.

Any person interested in any such case may appear therein and may be represented by counsel, and may demand a jury as in other cases. If no jury is demanded, it shall be deemed waived. The Judge of the Court, of his own motion may order the jury to try such case. As amended Acts 1943, 48th Leg., p. 300, ch. 194, § 1.

Approved and effective April 29, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "If any section, subsection, or clause of this Act shall be held to be unconstitutional or invalid, such deci-

sion shall not affect the validity of the remaining portions of the Act."

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

Art. 2338. Repealed. Acts 1943, 48th Leg., p. 313, ch. 204, § 24. Eff. 60 days after May 1, 1943, date of approval

Prior to repeal article was amended by Acts 1941, 47th Leg., p. 355, ch. 193, § 1.

Art. 2338—1. Delinquent children; juvenile court established in each county; jurisdiction; transfer of cases; custody—Purpose and basic principle

Section 1. The purpose of this Act is to secure for each child under its jurisdiction such care, guidance and control, preferably in his own home, as will serve the child's welfare and the best interest of the state; and when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given him by his parents.

The principle is hereby recognized that children under the jurisdiction of the court are wards of the state, subject to the discipline and entitled to the protection of the state, which may intervene to safeguard them from neglect or injury and to enforce the legal obligations due to them and from them.

Construction of the Act

Sec. 2. This Act shall be liberally construed to accomplish the purpose herein sought.

Definitions

Sec. 3. The word "court" means the "Juvenile Court". The word "Judge" means the Judge of the Juvenile Court. The term "delinquent child" means any female person over the age of ten (10) years and under the age of eighteen (18) years and any male person over the age of ten (10) years and under the age of seventeen (17) years:

- (a) who violates any penal law of this state of the grade of felony;
- (b) or who violates any penal law of this state of the grade of misdemeanor where the punishment prescribed for such offense may be by confinement in jail;
- (c) or who habitually violates any penal law of this state of the grade of misdemeanor where the punishment prescribed for such offense is by pecuniary fine only;
- (d) or who habitually violates any penal ordinance of a political subdivision of this state;
- (e) or who habitually violates a compulsory school attendance law of this state;
- (f) or who habitually so deports himself as to injure or endanger the morals or health of himself or others;
- (g) or who habitually associates with vicious and immoral persons.

Establishment of Juvenile Courts

Sec. 4. There is hereby established as follows in each county of the state a court of record to be known as the Juvenile Court, having such jurisdiction as may be necessary to carry out the provisions of this Act.

In counties having juvenile boards, such boards may designate the County Court or one or more of the District Courts to be the Juvenile Court or Courts for such county, and such designation may be changed from time to time by such juvenile boards. In all other counties the District Court or the County Court shall be the Juvenile Court as agreed between the judges of each respective courts, but until such time such County Court and District Court shall have concurrent jurisdiction in cases of children coming within the terms of this Act.

It is provided, however, that the jurisdiction, powers and duties thus conferred and imposed upon the established courts hereunder are super-added jurisdictions, powers and duties, it being the intention of the Legislature not to create hereby another office.

Jurisdiction

Sec. 5. The Juvenile Court shall have exclusive original jurisdiction in proceedings governing any delinquent child, and such court shall be deemed in session at all times.

Nothing contained herein shall deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or when such custody is incidental to the determination of causes pending in such courts.

When jurisdiction shall have been obtained by the court in the case of any child, such child shall continue under the jurisdiction of the court until he becomes twenty-one (21) years of age, unless discharged prior thereto; such continued jurisdiction shall, however, in no manner prejudice or constitute a bar to subsequent or additional proceedings against such child under the provisions of this Act.

Transfer

Sec. 6. A transfer may be made of cases from one Juvenile Court to another Juvenile Court where a child under the jurisdiction of one Juvenile Court has moved from one county to another, and where it is to the best interest of such child so to do. The Juvenile Court having jurisdiction of a child may transfer the case to the Juvenile Court of the county in which the child is presently residing, and shall send transcripts of records to the Judge of the other court, which shall be filed in the office of the clerk of such court.

Information, investigation, petition.

Sec. 7. Any person may, and any peace officer shall, give to the Judge, County Attorney, or to the Probation Officer of the county, information in his possession that a child is within the provisions of this Act. Thereupon the Judge, the County Attorney or the Probation Officer shall make or have made, preliminary inquiry to determine whether the interests of the public or of the child require that further action be taken. If either the Judge or the County Attorney shall determine that formal jurisdiction should be acquired, the County Attorney shall prepare and file in the court, or any attorney may prepare and file in the court, a petition alleging briefly the facts which bring said child within the provisions of this Act, and stating: (1) the name, age and residence of the child; the names and residences, (2) of his parents, (3) of his legal guardian, if there be one; (4) of the person or persons having custody or control of the child; and (5) of the nearest known relative, if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner, the petition shall so state. The proceedings shall be styled "In the matter of _____, a delinquent child".

Venue

Sec. 7-A. The petition referred to under Section 7 of this Act may be filed in the Juvenile Court of the county of residence of said child or of the county wherein the acts constituting said child a delinquent child were committed.

Summons, notice, custody of the child

Sec. 8. After a petition shall have been filed, and after such further investigation as the Judge may direct, unless the parties hereinafter named shall voluntarily appear, the court shall issue a summons reciting briefly the substance of the petition, and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. If the

person so summoned shall be other than the parent or guardian of the child, then the parent or guardian, or both, shall be notified of the pendency of the case and of the time and place appointed, by personal service before the hearing, if they reside within the jurisdiction of the court, except as hereinafter provided. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the Judge, is necessary.

If it appears that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the court, the Judge may cause to be endorsed upon the summons an order that the officer serving the same shall at once take the child into custody.

Service of summons

Sec. 9. Service of summons shall be made personally by a probation officer or peace officer by the delivery of attested copies thereof to the parent, guardian, or person having custody of the child who is summoned; provided, that jurisdiction may be obtained by the court if the court is satisfied that said officer has made diligent effort to locate such person or persons and has been unsuccessful in locating said persons. It shall be sufficient to confer jurisdiction if service is effected at least two (2) days before the time fixed in the summons for the return thereof.

Failure to obey summons, warrant

Sec. 10. If any person summoned as herein provided shall, without reasonable cause, fail to appear, he may be proceeded against for contempt of court. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the Judge that the servicing will be ineffectual, or the welfare of the child requires that he shall be brought forthwith into the custody of the court, a warrant may be issued against the child himself.

Release of child taken into custody

Sec. 11. Whenever any officer takes a child into custody, he may release said child to a parent, guardian, or any other person upon receipt of a written or oral promise of said person to assume complete responsibility for said child and to have him before the probation officer or the court at any time then, or subsequently, specified by said officer. If not so released, such child shall be placed in the custody of a probation officer or other person designated by the court or be taken immediately to the probation department, the court, or to the place of detention designated by the court. The court may make a general order designating such places of detention which may include private foster or boarding homes for children, or such other places of detention which to the court seem desirable. The County Commissioners Court may pay for boarding or foster home care for such children to be detained, or all children coming within the meaning of this Act whether prior to, or after the child has been adjudged a "delinquent child".

Any peace officer or probation officer shall have the right to take into custody any child who is found violating any law or ordinance, or who is reasonably believed to be a fugitive from his parents or from justice, or whose surroundings are such as to endanger his health, welfare, or morals. The child shall forthwith be brought to the Judge, who shall order the child's release, or his temporary detention either in the compartment provided for the custody of juveniles, or by a suitable person or agency as in the judgment of the court may seem proper. If the child is ordered detained, the petition provided for herein shall be filed immediately. In every such case the said officer shall refer all such cases, together with information they have secured concerning the child, to the

court or the probation department, and the case shall then be proceeded with as specified in this Act, provided that no child shall be taken before a Police Court or a Justice of Peace Court.

Transfer from other courts

Sec. 12. If during the pendency of a criminal charge or indictment against any person in any other court than a Juvenile Court, it shall be ascertained that said person is a female over the age of ten (10) years and under the age of eighteen (18) years, or is a male person over the age of ten (10) years and under the age of seventeen (17) years at the time of the trial for the alleged offense, it shall be the duty of such court to transfer such case immediately together with all papers, documents and testimony connected therewith to the Juvenile Court of said county. The court making such transfer shall order the child to be taken forthwith to the place of detention designated by the Juvenile Court, or to that court itself, or to release such child to the custody of a probation officer or any suitable person to appear before the Juvenile Court, or the probation department of said county at a time designated. The Juvenile Court shall thereupon proceed to set said case for hearing and to dispose of such case in the same manner as if it had been instituted in that court in the first instance.

Hearing, judgment

Sec. 13. The Judge may conduct the hearing in an informal manner and may adjourn the hearing from time to time. In the hearing of any case the general public may be excluded. All cases involving children shall be heard separately and apart from the trial of cases against adults.

If no jury is demanded, the Judge shall proceed with the hearing. When the proceeding is with a jury, the verdict shall state whether the juvenile is a "delinquent child" within the meaning of this Act, and if the Judge or jury finds that the child is delinquent, or otherwise within the provisions of this Act, the court may by order duly entered proceed as follows:

(1) place the child on probation or under supervision in his own home or in the custody of a relative or other fit person, upon such terms as the court shall determine;

(2) commit the child to a suitable public institution or agency, or to a suitable private institution or agency authorized to care for children; or to place them in suitable family homes or parental homes for an indeterminate period of time, not extending beyond the time the child shall reach the age of twenty-one (21) years;

(3) make such further disposition as the court may deem to be for the best interest of the child, except as herein otherwise provided.

No adjudication upon the status of any child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of a crime in any court. The disposition of a child or any evidence given in the court shall not be admissible as evidence against the child in any case or proceeding in any other court other than another Juvenile Court, nor shall such disposition or evidence operate to disqualify a child in any future civil service examination, appointment, or application.

Whenever the court shall commit a child to any institution or agency, it shall transmit with the order of commitment, a summary of its information concerning such child and give in the order of commitment the birth date of the child or attach thereto a certified copy of the birth certificate.

Judgments for support; enforcement

Sec. 13-A. It is further provided that the Juvenile Court in which the child has been adjudged delinquent, may, after giving the parent or other responsible person a reasonable opportunity to be heard, adjudge that such parent or other responsible person shall pay in the manner directed by the court such sum as will in whole or in part support such child whether or not the child is committed to the custody of his own parent or guardian, or whether to any other person, agency or institution. The court shall have full power to enforce said judgments for support by civil contempt proceedings after ten (10) days notice to such parent, guardian, or other person responsible for the care and support of the child, of his or her, or of their failure or wilful refusal to carry out the terms of such an order for support. The court shall have power and authority to alter or change such judgments, or suspend the same, as the facts and circumstances and justice may require, upon notice to such parent as above provided for.

Any person interested in any such case may appear therein and may be represented by counsel, and may demand a jury as in other cases. If no jury is demanded, it shall be deemed waived. The Judge of the court, of his own motion, may order the jury to try such a case.

Modification of judgment, return of child to parents

Sec. 14. An order of commitment made by the court in the case of a child shall be subject to modification or revocation from time to time.

A petition may be filed with the committing court requesting the reopening of the case of a child who has been committed by the court to the custody of an institution, agency or person; if the court is of the opinion that the best interest of the child will be served, it may at its discretion proceed to hear and determine the question at issue. It may thereupon order that such child be restored to the custody of its parents or guardian or be retained in the custody of the institution, agency or person; and may direct such institution, agency or person to make such other arrangements for the child's care and welfare as the circumstances of the case may require; or the court may make a further order or commitment.

Records

Sec. 15. Juvenile Court records shall not be inspected by persons other than probation officers or other officers of the Juvenile Court unless otherwise directed by the court.

Physical and mental examination

Sec. 16. The Court may cause any person coming under its jurisdiction to be examined by a physician, psychiatrist, or psychologist, appointed by the court. If it is determined that the child is either feebleminded or mentally ill, it shall be the duty of the Judge of the Juvenile Court to proceed to have the necessary legal steps taken to have said child adjudged feeble minded or insane.

Place of detention

Sec. 17. No female person over the age of ten (10) years and under the age of eighteen (18) years, or any male person over the age of ten (10) years and under the age of seventeen (17) years, shall be placed or committed to any compartment of any jail or lock-up in which persons over juvenile age are incarcerated or detained; but shall be placed in a room or ward separate and apart from that occupied by adults. The proper authorities of all counties shall provide suitable place of deten-

tion for such juveniles separate and apart from any jail or lock-up in which adults are confined. Said detention place may be in the same building housing adults, or in a building separate and apart from that where adults are confined.

Court Sessions

Sec. 18. Sessions of the court shall be held as the Judge shall from time to time determine. Suitable quarters shall be provided by the Commissioners Court of each county for the hearing of cases and for the use of the judge, the probation officer and other employees of the court.

Cooperation

Sec. 19. It is hereby made the duty of every county, town or municipal official or department, to render all assistance and co-operation within his or its jurisdictional power which may further the objects of this Act. All institutions or agencies to which the court sends any child are hereby required to give to the court or to any officer appointed by it, such information concerning such child as said court or officer may require. The court is authorized to seek the co-operation of all societies or organizations having for their objects the protection or aid of all children who come within the meaning of this Act.

Contempt

Sec. 20. Any person who wilfully violates, neglects or refuses to obey or perform any order of the court may be proceeded against for contempt.

Appeals

Sec. 21. An appeal may be taken by any party aggrieved to the Court of Civil Appeals, and the case may be carried to the Supreme Court by writ of error or upon certificate, as in other civil cases. Written notice of appeal shall be filed with the Juvenile Court within five (5) days after the entering of the order. An appeal, in the case of a child, shall not suspend the order of the Juvenile Court, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child shall have been committed, unless that court shall so order. However, the appellate court may provide for a recognizance bond. If the appellate court does not dismiss the proceedings and discharge the child, it shall affirm or modify the order of the Juvenile Court and remand the child to the jurisdiction of the Juvenile Court for supervision and care, and thereafter the child shall be and remain under the jurisdiction of the Juvenile Court in the same manner as if such court had made said order without an appeal having been taken.

Constitutionality

Sec. 23. If any section, sub-division or clause of this Act shall be held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Act.

Existing laws, effect on; original jurisdiction of district court

Sec. 24-A. This Act shall in no wise alter or affect existing laws with reference to dependent or neglected children as that term is defined by Article 2330, Revised Civil Statutes, 1925, and the District Court only shall have original jurisdiction in all proceedings wherein it is sought to have a child adjudged to be a dependent or neglected child, and its findings in such cases shall be entered in a book kept for that purpose to be known as "Juvenile Record". Acts 1943, 48th Leg., p. 313, ch. 204.

Approved May 1, 1943.

Effective 60 days after May 1, 1943.

Section 22 of the Act of 1943 read as follows: "Saving Clause. In all cases

where the court has continuing jurisdiction of the children already adjudged delinquent, any of the Acts herein repealed shall continue in force as applicable to

such children, and the provisions of such Statutes may continue to be exercised with reference to all such children where such jurisdiction has already attached."

Section 24 repealed arts. 2329, 2338 and C.C.P. arts. 1083-1093 and all conflicting laws and parts of laws.

Section 25 declared an emergency and provided that the Act should take effect 60 days after its passage.

Title of Act:

An Act the purpose of which is to change the method for handling delinquent children from the present criminal procedure to guardianship in order to secure for each child coming within the Act such care, guidance and control as will serve the child's welfare and the best interest of the state; providing for a Juvenile Court in each county of the state in the County

or District Courts already established; defining certain terms; providing for the procedure in cases of delinquent children; manner of hearing; dispositional power of Juvenile Court; selection of custodial agency; providing for support of children committed to custodial agency; prescribing that records shall be confidential; permitting physical and mental examinations of children upon order of the court; prescribing places of detention; court session; co-operation; contempt; methods of appeal; saving clause; re-enacting that portion of Article 2329, Revised Civil Statutes, 1925, dealing with dependent and neglected children; repealing clause; and declaring an emergency, and effective date to be sixty days after enactment. Acts 1943, 48th Leg., p. 313, ch. 204.

TITLE 44—COURTS—COMMISSIONERS

1. COMMISSIONERS COURT

<p>Art. 2350(7). Travelling expenses in counties under 25,200 [New].</p> <p>2350(8). Salaries of County Commissioners in counties over 140,000 [New].</p>	<p>Art.</p> <p>2354a. When tax levied; members of Commissioners Court or County Judge in military service [New].</p> <p>2372d—1. Validation of warrants issued to construct exhibition buildings and bonds to fund such warrants [New]</p>
<h3>2. POWERS AND DUTIES</h3>	
<p>2351a—3. Fire fighting equipment; counties over 350,000; furnishing equipment to towns and vil-</p>	

1. COMMISSIONERS COURTS

Art. 2339. 2236, 1532, 1509 Election

Juvenile court, see article 2338-1.

Art. 2350(7). Traveling expenses in counties under 25,200

In all counties of this state having a population of less than twenty-five thousand two hundred (25,200) according to the last preceding Federal Census, the Commissioners Court of such counties is hereby authorized to allow each Commissioner the sum of not more than Twenty-five (\$25.00) Dollars per month for traveling expenses while on official business in said counties. Acts 1943, 48th Leg., p. 637, ch. 362, § 1.

Filed without the Governor's signature May 24, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act authorizing the allowance of traveling expenses not to exceed Twenty-five (\$25.00) Dollars per month for each County Commissioner in counties having a population of less than twenty-five thousand two hundred (25,200); and declaring an emergency. Acts 1943, 48th Leg., p. 637, ch. 362.

Art. 2350(8). Salaries of County Commissioners in counties over 140,000

Section 1. In all counties in this state having a population in excess of one hundred forty thousand (140,000) according to the last preceding Federal Census or any future Federal Census, the County Commissioners in such counties shall each receive a salary of Forty-eight Hundred (\$4,800.00) Dollars per annum and said salary 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 such counties.

Sec. 2. In all counties described in Section 1 hereof where more than fifty thousand (50,000) members of the armed forces of the United States are stationed in army camps, there exist conditions requiring additional work in building and maintaining lateral roads and requiring additional duties by County Commissioners that would not otherwise be required. Therefore the County Commissioners in such counties shall each receive a salary of Fifty-five Hundred (\$5500.00) Dollars per annum, and said salary 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 such counties. Acts 1943, 48th Leg., p. 382, ch. 257.

Filed without the Governor's signature, May 7, 1943.

Effective May 7, 1943.

Sections 5 and 6 of the Act of 1943 read as follows:

"§ 5. If any part of this Act shall be held to be unconstitutional, then all the Act shall be unconstitutional. The Legislature hereby declares that it would not have passed the remaining parts of this

Act if it had known that such part or parts would be declared unconstitutional.

"§ 6. All laws or parts of laws in conflict with any provision of this Act are hereby repealed, unless this Act be invalid."

Section 7 declared an emergency and provided that the Act should take effect from and after its passage.

2. POWERS AND DUTIES

Art. 2351a—3. Fire fighting equipment; counties over 350,000; furnishing equipment to towns and villages having volunteer departments

Section 1. The term "county" when used in this Act shall mean any county in Texas having a population of three hundred and fifty thousand (350,000) or more according to the last preceding Federal Census.

Sec. 2. The Commissioners Court of the county is hereby authorized to and may furnish fire fighting equipment under the terms and provisions of this Act. It is the legislative intent and purpose that this Act be construed as permitting the Commissioners Court within their discretion to carry out the provisions of this Bill but the language in this Bill shall not be construed as being mandatory in nature.

Sec. 3. The governing authorities of any incorporated town or village of the county, which has a volunteer fire department recognized by the Insurance Commission of the State of Texas, may, by an order or resolution, a majority voting in favor thereof, petition the Commissioners Court of the county to enter into a contract to furnish fire fighting equipment as provided in this Act. The Commissioners Court may enter into the contract and furnish the fire fighting equipment where the petitioners show the incorporated town or village is eligible to receive the service and benefit of such equipment by compliance with the terms of this Act.

Sec. 4. When at least twenty-five (25) citizens, living in any unincorporated village, town or community, who have, or will organize within a reasonable time, a volunteer fire department recognized by the Insurance Commission of the State of Texas, and who are in all respects qualified to vote in a county bond election, petition the Commissioners Court for fire fighting equipment, it may be the duty of the Commissioners Court to enter into a contract and furnish such fire fighting equipment, subject to and in accordance with the provisions of this Act.

Sec. 5. The term "fire fighting equipment" referred to herein shall mean a four hundred-gallon booster tank mounted on a suitable truck chassis, equipped with a front-end pump and other necessary appliances and equipment. Total initial cost of each unit of fire fighting equipment shall in no instance exceed the sum of Two Thousand Seven Hundred and Fifty Dollars (\$2,750).

Sec. 6. The contract referred to herein shall provide and be conditioned that the county may furnish the fire fighting equipment for the use and benefit of the petitioners, subject to the agreement and understanding that the petitioners shall furnish a satisfactory place in which to keep and house the fire fighting equipment and pay at their own expense all of the costs of operation of said fire fighting equipment, and furnish the personnel to operate the same. The county shall be charged with the duty of keeping the fire fighting equipment in good working condition and shall be responsible for all replacements and repairs required.

The Commissioners Court shall determine when repairs and replacements are necessary for such equipment. The Commissioners Court may provide for at least one emergency unit of fire fighting equipment to be used by the petitioners while the regular unit is being repaired or replaced by the Commissioners Court. The Court shall require that all repairs, including labor and materials, shall be made, in so far as possible, in the shops of the Commissioners, and the Commissioners Court shall have the power to designate any one or all of said shops for such purposes. The Commissioners Court may use trucks or other equipment, now on hand, if they are unable to acquire new trucks or other equipment for the purpose of building or equipping said fire fighting equipment.

The petitioners shall be charged with the safe keeping of the fire fighting equipment. They shall be responsible to the county for any loss of such equipment from theft. They shall be responsible to the county for any loss resulting to said fire fighting equipment assigned them by reason of any negligence of any officer, agent or employee of any incorporated town or village or of any one of the twenty-five (25) petitioners in an unincorporated village, town or community handling or operating such equipment.

Sec. 7. Before any unit of fire fighting equipment is delivered to any petitioners, they shall give bond with good and sufficient surety, payable to the county, in an amount to be fixed by the Commissioners Court, not to exceed the initial cost of the unit of fire fighting equipment, conditioned that they will pay to the county the amount of the actual loss to each unit of equipment, or any part thereof, resulting from theft or negligence as hereinafter provided.

Sec. 8. The term "petitioners" as used herein shall mean any governing body of any incorporated town or village of the county. It shall also mean and include the number of petitioners not less than twenty-five (25) authorized herein to petition the Commissioners Court for fire fighting equipment, who reside in an unincorporated town, village or community.

Sec. 9. Said fire fighting equipment shall remain in the county and the Commissioners Court shall at all times have the right to inspect and examine said equipment and shall have the right to repossess the same upon noncompliance by the petitioners with the terms of this Act.

Sec. 10. The Commissioners Court may have, and it is hereby granted, the power and authority to contract with any city or cities within said county for the use of fire fighting equipment and the use and service thereof by the fire department of such city or cities for the purpose of fighting fires outside the city limits of such city or cities, upon such terms and conditions as may be mutually agreed upon by such Commissioners Court and the governing authorities of such city or cities, and said Commissioners Court and it is hereby authorized and empowered to pay out of the General Fund of said county such compensation for such services as may be agreed upon as hereinabove provided.

Sec. 11. The Court shall pay all costs of administering this Act out of the General Fund of the county. Acts 1943, 48th Leg., p. 566, ch. 336.

Approved and effective May 14, 1943.

Section 12 of the Act of 1943 repealed all conflicting laws and parts of laws.

Section 13 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for special fire fighting equipment in all counties having a population of three hundred and fifty thousand (350,000) or more according to the last pre-

ceding Federal Census; providing that the term "county" when used in this Act shall mean any county in Texas having a population of three hundred and fifty thousand (350,000) or more according to the last preceding Federal Census; providing for the Commissioners Court to furnish fire fighting equipment to incorporated towns and villages with a volunteer fire department recognized by the Insurance Commission; providing for the terms and

conditions of furnishing such fire fighting equipment to certain unincorporated towns and villages and communities; providing for the Commissioners Court to enter into contracts to furnish such fire fighting equipment; prescribing the terms of said contracts; describing the kind and nature of such fire fighting equipment to be furnished under this Act; defining the term "fire fighting equipment" as used in this Act; providing for the amounts and conditions of bonds to be executed by the petitioners, payable to the County; providing for the payment of costs of the administering of this Act out of the General Fund

of the County; defining the term "petitioners" as used in this Act; providing that the title to such fire fighting equipment shall remain in the County; providing the Commissioners Court may contract with any city or cities in said County for the use of fire fighting equipment and service of the fire department of such city or cities for the purpose of fighting fire outside the city limits of such city or cities upon terms and conditions mutually agreed upon; repealing all laws in conflict with this Act; and declaring an emergency. Acts 1943, 48th Leg., p. 566, ch. 336.

Art. 2354. 2244, 1540, 1517 When tax levied

Suspension until May 1, 1945.

Acts 1943, 48th Leg., p. 381, ch. 256, § 1 suspends the provisions of this article until May 1, 1945. See article 2354a as to provisions in effect until then.

Art. 2354a. When tax levied; members of Commissioners Court or County Judge in military service

No county tax shall be levied except at a regular term of the court, and when all members of said court are present. Provided, however, that if any member or members of the Commissioners Court or the County Judge is in active military or naval service, county taxes may be levied at any regular term of the Commissioners Court when a quorum of its members are present. This section shall be effective until the date set out in Section 1.¹ Acts 1943, 48th Leg., p. 381, ch. 256, § 2.

¹ May 1, 1945. See note under article 2354.

Approved May 8, 1943.

Effective 90 days after date of adjournment.

Section 4 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 2355. 2245-6 To fill vacancies

Conduct of business by assistants or deputies when physical vacancy occurs in public office, see article 6252-1.

Art. 2372d-1. Validation of warrants issued to construct exhibition buildings and bonds issued to fund such warrants

Section 1. All warrants heretofore authorized and issued by the Commissioners Court of any County for the purpose of constructing a livestock and agricultural exhibition building within said County, where such livestock and agricultural exhibition building has been constructed, are hereby validated notwithstanding any objections other than constitutional that might be raised thereto and are hereby declared to be the valid and legal obligations of such County in accordance with the terms and provisions thereof.

Sec. 2. All bonds heretofore authorized by the Commissioners Court of any County for the purpose of funding any such warrants described in Section 1 hereof are hereby validated notwithstanding any objections other than constitutional that might be raised thereto, and any such County is hereby authorized to complete proceedings for the delivery of such bonds and to deliver such bonds, when approved by the Attorney General and registered by the State Comptroller of Public Accounts, in exchange for and upon the simultaneous payment and cancellation of such warrants as hereinabove described in Section 1, and said funding bonds when so delivered are hereby declared to be and shall be the valid and legal obliga-

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

tions of said County in accordance with the terms and provisions thereof; provided, however, that the provisions of this Act shall not apply to any warrants or bonds or proceedings therefor, the validity of which is being contested in any suit or litigation pending at the time this Act becomes a law. Acts 1943, 48th Leg., p. 124, ch. 94.

Approved and effective March 31, 1943.

Section 3 of the Act of 1943 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 warrants heretofore authorized and issued by any County for the purpose of constructing a livestock and agricultural exhibition building within said County where such livestock and agri-

cultural exhibition building has been constructed; and validating, confirming, approving, and legalizing all bonds heretofore authorized for the purpose of funding and paying such warrants; providing that this Act shall not apply to any proceedings authorizing such warrants or bonds where the validity of either of such warrants or bonds is now being contested in any pending suit; and declaring an emergency. Acts 1943, 48th Leg., p. 124, ch. 94.

TITLE 45—COURTS—JUSTICE

Art. 2385. 2291, 1568, 1539 Jurisdiction

Misdemeanor cases, in what precinct defendant to be tried, see C.C.P. article 2390.

Art. 2390. 2308, 1585, 1556 Suits, where brought

Misdemeanor cases, in what precinct defendant to be tried, see C.C.P. article 2390.

TITLE 46—CREDIT ORGANIZATIONS**Art. 2465. Supervision; Credit Union Examiners; expenses**

Such Credit Union shall maintain such books and records as the Banking Commissioner may deem necessary. The Banking Commissioner shall cause each Credit Union to be examined at least once yearly, such examination to be made by (1) one or more Credit Union Examiners who shall be appointed by the Banking Commissioner and shall receive a salary of not exceeding Three Hundred (\$300.00) Dollars per month, and shall receive all necessary traveling expenses, a sworn itemized account of which shall be rendered monthly by each Examiner and approved by the Commissioner; or by (2) the Deputy Commissioner, departmental examiner, any bank examiner, assistant bank examiner, building and loan supervisor, or building and loan examiner.

Each Credit Union examined shall pay an examination fee fixed by the Banking Commissioner not to exceed Twenty-five (\$25.00) Dollars per day per person engaged in such examination. Such fees, together with any other fees, penalties or revenues collected by the Commissioner pursuant to the provisions of this Act or pursuant to other laws of this state relative to corporations under the supervision of the Banking Department, shall be paid by the Commissioner to the State Treasurer to the credit of the General Revenue Fund. The expenses of examination and of the Commissioner in enforcing the provisions of this Act shall be paid upon the certificate of the Commissioner by warrant of the Comptroller upon the State Treasury. As amended Acts 1943, 48th Leg., p. 409, ch. 276, § 1.

Approved and effective May 8, 1943.
Section 2 of the amendatory Act of 1943
declared an emergency and provided that

the Act should take effect from and after
its passage.

Art. 2484. Report to Commissioner

Within thirty days after the last business day of December 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 the said report is correct according to their 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. The Banking Commissioner may, however, for good cause shown, extend the time of filing of said report not more than sixty days. All such associations shall be exempt from all franchise or other license tax; nor shall any intangible property of such associations be taxable by this state or any political subdivision thereof. As amended Acts 1943, 48th Leg., p. 352, ch. 230, § 1.

Approved and effective May 6, 1943.
Section 2 of amendatory Act of 1943 de-
clared an emergency and provided that

the Act should take effect from and after
its passage.

TITLE 46A—DECLARATORY JUDGMENTS [NEW]

Art.

2524—1. Uniform Declaratory Judgments
Act—Scope

Art. 2524—1. Uniform Declaratory Judgments Act—Scope

Section 1. Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

Power to construe, etc.

Sec. 2. Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a Statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, Statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

Before breach

Sec. 3. A contract may be construed either before or after there has been a breach thereof.

Executor, etc.

Sec. 4. Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto:

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others; or

(b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Enumeration not exclusive

Sec. 5. The enumeration in Sections 2, 3, and 4 does not limit or restrict the exercise of the general powers conferred in Section 1, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

Discretionary

Sec. 6. The Court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

Review

Sec. 7. All orders, judgments, and decrees under this Act may be reviewed as other orders, judgments, and decrees.

Supplemental relief

Sec. 8. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a Court having jurisdiction to grant the relief. If the application be deemed sufficient, the Court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

Jury trial

Sec. 9. When a proceeding under this Act involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the Court in which the proceeding is pending.

Costs

Sec. 10. In any proceeding under this Act the Court may make such award of costs as may seem equitable and just.

Parties

Sec. 11. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the Statute, ordinance, or franchise is alleged to be unconstitutional, the Attorney General of the State shall also be served with a copy of the proceeding and be entitled to be heard.

Construction

Sec. 12. This Act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and is to be liberally construed and administered.

Words construed

Sec. 13. The word "person," wherever used in this Act, shall be construed to mean any person, partnership, joint stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

Provisions severable

Sec. 14. The several Sections and provisions of this Act, except Sections 1 and 2, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the Act invalid or inoperative.

Uniformity of interpretation

Sec. 15. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

Short title

Sec. 16. This Act may be cited as the Uniform Declaratory Judgments Act. Acts 1943, 48th Leg., p. 265, ch. 164.

Approved and effective April 26, 1943.

Section 17 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing Courts of record to declare rights, status and other legal relations, to enter declaratory judgments, to determine questions of construction or validity arising under a written instrument, Statute, ordinance, contract, or franchise; providing reasons for having declaration of rights by certain persons; pro-

viding right of Court to refuse to render declaratory judgment; providing for review; providing for supplemental relief; also authorizing jury trials when a proceeding for a declaratory judgment involves an issue of fact; authorizing the Court to make award of costs; providing procedure when declaratory relief is sought; providing a rule of construction; defining certain term; providing a saving clause; providing for uniformity of interpretation; providing a short title; and declaring an emergency. Acts 1943, 48th Leg., p. 265, ch. 164.

TITLE 47—DEPOSITORIES

CHAPTER ONE—STATE DEPOSITORIES

Art.
2543b. Defense bonds and other United States obligations; investment of bond proceeds by state [New].

Art. 2526. 2418 Notice to banks

The Treasurer on the second Tuesday in September, 1943 and on the second Tuesday in September of each odd numbered year thereafter, shall mail to each State and National Bank doing business in this state, a circular letter, stating the conditions to be complied with by 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 two years' 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 1943, 48th Leg., p. 422, ch. 288, § 1.

Approved and effective May 10, 1943. the Act should take effect from and after its passage.
Section 2 of the amendatory Act of 1943 declared an emergency and provided that

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; bonds issued by the Federal Farm Mortgage Corporation, provided both principal and interest of said bonds are guaranteed by the United States Government; shares or share accounts of any building and loan association organized under the laws of this State, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation, and in the shares or share accounts of any Federal Savings & Loan Association domiciled in this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation; 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 appraisal 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 in 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 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 warrants, and that none of such warrants were obtained from the original 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 pro-

visions 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 1943, 48th Leg., p. 63, ch. 55, § 1.

1 12 U.S.C.A. § 264.

Approved and effective March 11, 1943.

Section 2 of the amendatory Act of 1943

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

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 any time by giving thirty 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 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 1943, 48th Leg., p. 422, ch. 288, § 1.

Approved and effective May 10, 1943.

Art. 2543b. Defense bonds and other United States obligations; investment of bond proceeds by state

That where the State of Texas has heretofore or hereafter accumulated funds for certain purposes and is unable to obtain labor or materials to carry out such purposes, such funds may be invested in defense bonds or other obligations of the United States of America; provided, however, that when war time or any other regulations shall permit the state to acquire the necessary labor and materials, the obligations of the United States in which said funds are invested shall be sold or redeemed and the proceeds of said obligations shall be used for the purpose for which the funds were originally authorized or collected. Acts 1943, 48th Leg., p. 211, ch. 131, § 1.

Approved and effective April 12, 1943.

Section 2 of the Act of 1943 is set out as article 708b.

Section 3 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the State of Texas to invest certain funds in defense bonds or other obligations of the United States of America, and authorizing any political subdivision of the State of Texas which heretofore has issued and sold bonds and is unable to obtain labor and materials to carry out the purpose for which the bonds were is-

sued may invest the proceeds now on hand in defense bonds or other obligations of the United States of America; providing that whenever war time or any other regulations shall permit such political subdivisions to acquire the necessary labor and materials, the bonds of the United States in which said proceeds are invested shall be sold or redeemed and the proceeds of said bonds shall be used for the purpose for which the bonds of any such subdivision were authorized; and declaring an emergency. Acts 1943, 48th Leg., p. 211, ch. 131.

CHAPTER TWO—COUNTY DEPOSITORIES

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 (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 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 (75%) per cent 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 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, 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 (\$500,000.00) Dollars, notes or bonds secured by mortgages insured and debentures issued by the Federal Housing Administrator of the United States Government, shares or share accounts of any building and loan association organized under the laws of this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation, and in the shares or share accounts of any Federal Savings & Loan Association domiciled in this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation; 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 (25%) per cent 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 (\$100,000.00) Dollars 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 (\$100,000.00) Dollars 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 (50%) per cent 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 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 with-

drawn, 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 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 1943, 48th Leg., p. 70, ch. 58, § 1.

Approved and effective March 11, 1943. the Act should take effect from and after
Section 2 of the amendatory Act of 1943 its passage.
declared an emergency and provided that

CHAPTER THREE—CITY DEPOSITORIES

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 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 (1) 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, 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,¹ 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; in shares or share accounts of any building and loan association organized under the laws of this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation, and in the shares or share accounts of any Federal Savings & Loan Association domiciled in this state, provided the payment of such shares or share accounts is insured by the Federal

Savings & Loan Insurance Corporation; bank acceptances of banks having a capital stock of not less than Five Hundred Thousand (\$500,000.00) Dollars, 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 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 1943, 48th Leg., p. 67, ch. 57, § 1.

1 12 U.S.C.A. § 641 et seq.

Approved and effective March 11, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

TITLE 49—EDUCATION—PUBLIC

Chap. Art.
Four A. Dental College of the University of Texas [New].2623b—1

Dental College of University created, see articles 2623b—1 to 2623b—6.

CHAPTER FOUR A—DENTAL COLLEGE OF THE UNIVERSITY OF TEXAS [NEW]

Table with 2 columns: Art. and description. Includes items 2623b-1 through 2623b-6.

Art. 2623b—1. College created; location; branch of University; management

A Dental College of The University of Texas is hereby created for the State of Texas. It shall be located and is established hereby in the City of Houston, Harris County, Texas, provided the Texas Dental College, Houston, Texas, shall make, execute, and deliver to the Board of Regents of The University of Texas, for and on behalf of the State of Texas, a deed to the land, together with the buildings, improvements, and equipment thereon situated, located in the City of Houston, Harris County, Texas, now owned and used by said Texas Dental College, free of all debt or other encumbrances, to be used for the site and exclusive occupancy of such Dental College of The University of Texas. Before acceptance the Board of Regents shall secure the opinion of the Attorney General on the title to such real property. The Dental College of The University of Texas is hereby made and constitutes a branch of The University of Texas for instruction in dental education. The University of Texas, through its Board of Regents, shall take over the management and control of the Dental College and its properties. Acts 1943, 48th Leg., p. 555, ch. 329, § 1.

Approved May 14, 1943.
Effective 90 days after May 11, 1943, date of adjournment.

Section 7 of the Act of 1943 read as follows: "The fact that any word, phrase, clause, sentence, paragraph, section, or sections of this Act may be declared unconstitutional or invalid by the courts shall not affect the constitutionality or validity of the remainder thereof."

Section 8 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act creating the Dental College of the The University of Texas; fixing its location; authorizing the Board of Regents to accept on behalf of The University of Texas a deed to the building, improvements, and equipment of the Texas Dental College to be used by and for the Dental College of The University of Texas; providing for the opinion of the Attorney General on the title to such property; consti-

tuting the Dental College of The University of Texas as a branch of The University of Texas; placing the control and management of such in the Board of Regents; setting forth the principal purpose of such College; providing that subjects taught should meet the requirements of certain standard educational associations; providing that the Board of Regents of The University of Texas shall appoint the faculty, and that upon appointment they shall be members of the faculty of The University; providing that the Board of Regents may confer degrees, fix standards, and make proper rules and regulations for the control and management of the College; providing that the College should give courses leading to degrees and such other courses as the Board of Regents may deem necessary; placing in the Board of Regents power to fix the amount of tuition charges and appropriating such moneys and fees for the use of the College, under the direction of the Board of Regents, but subject, however, to appropriation by the

Legislature; authorizing the Board of Regents to accept grants and gifts of property or money for the use of such College; providing a saving clause; and declaring an emergency. Acts 1943, 48th Leg., p. 555, ch. 329.

Art. 2623b—2. Purpose of college

The principal purpose of said Dental College shall be to teach such branches in dental education as will give a thorough technical knowledge of dentistry, and all subjects pertaining thereto, and that shall meet the requirements of the Council on Dental Education, the American Association of Dental Schools and other such educational associations of like standard concerned with dental education. Acts 1943, 48th Leg., p. 555, ch. 329, § 2.

Art. 2623b—3. Faculty

The faculty of the Dental College shall be appointed by the Board of Regents of The University of Texas. Those appointed shall thereupon become members of the faculty of The University of Texas. Acts 1943, 48th Leg., p. 555, ch. 329, § 3.

Art. 2623b—4. Powers of Board of Regents; courses

The Board of Regents of The University of Texas shall have the authority to confer degrees and issue diplomas, and fix a standard of grades for all students attending the College, and shall also have the power to make such other rules and regulations for the proper control and management of the school as may be deemed necessary. The Dental College shall have regular courses leading to degrees, and such other special courses as the Board of Regents of the University of Texas may deem necessary. Acts 1943, 48th Leg., p. 555, ch. 329, § 4.

Art. 2623b—5. Tuition; expenditure of funds

The Board of Regents of The University of Texas shall fix the amount of tuition to be charged students in said Dental College, and all moneys and fees and all other receipts are hereby appropriated to said College to be expended under the direction and with the approval of the Board of Regents of The University of Texas. Should the Legislature, however, appropriate these funds in any general or special appropriation bill, and itemize or otherwise direct the expenditure of such funds for the use of the College, such shall control over the provisions of this Section. Acts 1943, 48th Leg., p. 555, ch. 329, § 5.

Art. 2623b—6. Grants or gifts

The Board of Regents of The University of Texas is hereby authorized to accept, in connection with said Dental College, grants or gifts of property or money for the use of said institution from other than State sources. Acts 1943, 48th Leg., p. 555, ch. 329, § 6.

CHAPTER NINE—STATE TEACHERS' COLLEGES

Art.
2650a. Airport; Board of Regents authorized to acquire and operate [New].

2. SAM HOUSTON STATE TEACHERS' COLLEGE.

Art. 2650a. Airport; Board of Regents authorized to acquire and operate

Section 1. The Board of Regents of the Sam Houston State Teachers College of Texas is authorized to construct or acquire otherwise without any cost whatsoever to the state or the college, an airport for said institution for purposes in cooperation with the national defense program, and for instruction in aeronautics.

Sec. 2. Said Board of Regents shall have the power and is hereby authorized to acquire by purchase, lease, gift, or in any other manner, and to maintain, use and operate any and all property of any kind, real, personal or mixed, or any interest therein necessary or convenient to the exercise of the powers conferred upon it by this Act. Said Board shall have the power of eminent domain for the purpose of acquiring by condemnation any real property or any interest therein necessary or convenient to the exercise of the powers and rights conferred upon it by this Act. Said Board shall exercise the right of eminent domain in the manner provided by General Law, including Article 3264 et seq of the Revised Statutes and amendments thereto, except that it shall not be required to give bond for appeal or bond for costs. Acts 1943, 48th Leg., p. 103, ch. 74.

Approved and effective March 18, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Board of Regents of the Sam Houston State Teachers College

of Texas to acquire and maintain and operate an airport for said institution for national defense and for instruction in aeronautics; conferring the right of eminent domain; enacting other provisions in reference to the subject; and declaring an emergency. Acts 1943, 48th Leg., p. 103, ch. 74.

CHAPTER NINE A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

Art. 2654b—1. Exemption from fees; war veterans; auxiliary members; members of armed forces and their children; holders of scholarships

Sec. 3. All of the above and foregoing provisions, conditions and benefits hereinabove in this Article provided for in Section 1 and in Section 2 shall apply and accrue to the benefit of all nurses, members of the Women's Army Auxiliary Corps, Women's Auxiliary Volunteer Emergency Service, and all members of the United States armed forces, regardless of whether members of the United States Army or of the United States Navy or the United States Coast Guard, who have, or are now serving, or who may after the passage of this Act, serve in the armed forces of the United States of America during the present World War Number II, being the war now being prosecuted, and which was

entered into on or shortly after December 7, 1941, by the United States of America against what are commonly known as the Axis Powers; provided, further, that all the above and foregoing persons named have been honorably discharged from the services in which they were engaged. And, provided further, that the benefits and provisions of this Act shall also apply and inure to the benefit of the children of members of the United States Armed Forces, where such members were killed in action or died while in the service. The provisions of this Act shall not apply to or include any member of such United States Armed Forces, or other persons hereinabove named, who were discharged from the service in which they were engaged because of being over the age of thirty-eight (38) years or because of a personal request on the part of such person to be discharged from such service.

Other than as amended herein, present Article 2654b-1 is hereby reenacted and shall in all things continue in full force and effect subject only to the addition of the above section to be known as Section 3. Add- ed Acts 1943, 48th Leg., p. 568, ch. 337, § 1.

Approved and effective May 15, 1943. the Act should take effect from and after
Section 2 of the amendatory Act of 1943 its passage.
declared an emergency and provided that

CHAPTER TEN—STATE DEPARTMENT OF EDUCATION

Art. 2665. 2729 Apportionment, duty to make; formula

The State Board of Education shall, on or before the first day of August in each year, based on the estimate theretofore furnished said Board by the Comptroller, make an apportionment for the ensuing scholas- tic year of the available State School Funds among the several counties of the State and the several cities and towns and school districts constitut- ing separate school organizations, according to the scholastic population of each, and thereupon the Secretary shall certify to the treasurer of each such separate school organization the total amount of available school fund so apportioned to each, which certificate shall be signed by the presi- dent and countersigned by the Comptroller and attested by the Secretary.

In arriving at the amount to be apportioned, the State Board of Edu- cation shall determine the cost of operating schools for a six-months period; taking into consideration the estimate of current costs, including the cost of general control, instruction, operation, maintenance, fixed charges, auxiliary agencies, and interest on short term loans; all items to be calculated on a minimum program of education set up by the State Board. When such apportionment per pupil has been fixed, same shall be certified to by the secretary of the Board and filed with the Automatic Tax Board to be used by the Tax Board in fixing the rate of State ad valorem taxes for school purposes that will provide sufficient funds to maintain the public schools of Texas for a period of not less than six (6) months. Provided that the State Board of Education in estimating the amount of money that it judges to be necessary to maintain the public schools for a period of not less than six (6) months shall proceed as fol- lows, and make use of the formulas set up as follows: (1) It shall multi- ply the minimum base salary per month used in accredited schools by the total number of teachers, principals, supervisors, assistant superin- tendents, and superintendents in the State, and then multiply this product by six (6); (2) From its statistical data collected yearly showing total expenditures for school purposes by all the public schools of the State, it shall make an average of such expenditures for the last five (5) years pre- ceding the year for which the per capita is to be set, taking into account all expenditures for general control less salaries paid to superintendents

and assistant superintendents, for instructional purposes less salaries paid to supervisors, principals and teachers of all ranks, for the operation of the school plants, for the maintenance of the school plants, for the fixed charges, for interest on short term loans to pay current running expenses in anticipation of the collection of taxes or the receipt of the State per capita or other moneys, and for auxiliary agencies, but specifically excluding all amounts spent for bonds or the servicing of bonds or bonded indebtedness in any way, and specifically excluding also all amounts spent as capital outlay for grounds, buildings and equipment; (3) It shall take two-thirds of the total average so found as directed in two (2) above and add to it the last product as found in one (1) above, and this last sum so found shall be considered the amount that is deemed necessary to maintain the public schools for a period of not less than six (6) months; provided that the State per capita apportionment shall never exceed Twenty-five Dollars (\$25) for any one scholastic year. As amended Acts 1943, 48th Leg., p. 262, ch. 161, § 1.

Approved and effective April 22, 1943. Act should take effect from and after its
Section 2 of amendatory Act of 1943 declared an emergency and provided that the passage.

Art. 2673. 2740 Option to purchase

Whenever any county, city, independent or common school district, road precinct, drainage, irrigation, navigation or levee district of this State or the University of Texas issues any bonds, obligations, or pledges, or issues any refunding bonds in lieu of outstanding bonds which are held for the account of the State Permanent School Fund which may be redeemed before maturity and which have been called for redemption, and whenever such bonds, obligations or pledges have been approved by the Attorney General, as required by the preceding Articles, the county judge, the mayor, the president of the board of trustees of the school district, the president of the board of regents, or the county judge or party authorized by law to sell such bonds, obligations, or pledges, shall notify the State Board of Education of all bids received for such bonds, obligations, or pledges, and shall give said Board an option of ten (10) days in which to purchase same; provided, that said Board will pay the price offered therefor by the best bona fide bidder; and if the said Board fails to purchase said bonds, obligations, or pledges within said time, then such county judge, mayor, or president shall sell the same to the best bona fide bidder. If the State Board shall pay a premium out of the Permanent School Fund on any bonds, obligations, or pledges purchased as an investment for the Permanent School Fund, then the principal of such bonds, obligations, or pledges and an amount of the interest first accruing thereon equal to the premium so paid, shall be treated as the principal in such investment, and, when such first interest is collected, such sum of the same shall be returned to the Permanent School Fund, and, if they purchase said bonds, obligations, or pledges for less than par, the discount they receive in the purchase thereof shall be paid to the Available School Fund when the said bonds, obligations, or pledges are paid off and discharged. The price paid for bonds, obligations, and pledges shall be indorsed thereon at the time the same are purchased. If the said Board shall refuse to purchase bonds, obligations, and pledges from such county, city, precinct or district or the University of Texas, or the parties to whom the same were issued, then in no event shall said Board purchase them from any subsequent owner or holder of the same. As amended Acts 1943, 48th Leg., p. 369, ch. 248, § 1.

Approved and effective May 6, 1943. visions of the Statute herein as amended
Section 2 of the amendatory act of 1943 have been construed by the Supreme Court
read as follows: "The fact that the pro- in Dallas County v. Lockhart, 128 Texas,

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

50 [96 S.W.2d 60], as failing to give to the State Board of Education the right to purchase for the Permanent School Fund bonds issued by a municipality to refund outstanding obligations wherein there was retained in the issuing municipality the privilege of redeeming the obligations before maturity, and the fact that such construction of the Statute has resulted in

loss of many investments held for the Permanent School Fund, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

CHAPTER ELEVEN—COUNTY SCHOOLS

Art.

2694a. Victory Tax; deductions from salaries of teachers and other employees [New].

2. SUPERINTENDENT

Art. 2694a. Victory tax; deductions from salaries of teachers and other employees

Section 1. The County Superintendent of the several counties of this State shall deduct the so-called Federal Victory Tax, and/or other taxes which may be levied by the Federal Government upon salaries of citizens or inhabitants of the United States of America, from the salary of each teacher or other employee of the common school districts of the county or any other schools coming within his jurisdiction. Such deductions shall be made from the per capita apportionment moneys or from any other funds available for the payment of such salaries, shall be deposited in the county depository in a common fund for which the deductions were made, and shall when the said tax or taxes are due be forwarded by said County Superintendent by check or voucher, with proper itemization, to the appropriate Federal authorities.

Sec. 2. The County Superintendent may and shall perform the various duties imposed by Section 1 without vouchers or other authorization from the various school districts or from anyone else, one of the purposes of this Act being that all duties imposed by Section 1 on the County Superintendent may be performed by the said officer alone and in his own office without direction or interference of others.

Sec. 3. Any general or special law or laws in conflict or inconsistent with the provisions of this Act are hereby expressly repealed but only in so far as they are in conflict or inconsistent. Acts 1943, 48th Leg., p. 217, ch. 136.

Approved and effective April 12, 1943.

Section 4 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act making it the duty of the County Superintendent to deduct from the salary of each teacher or other employee of common school districts or other school districts under his jurisdiction the so-called Federal Victory Tax and/or other taxes levied by the Federal Government upon salaries, such deductions to be made from the per capita apportioned moneys or from

other funds available for payment of such salaries and to be placed in a common fund in the county depository, and to be forwarded to the proper Federal authorities when the tax or taxes are due; providing that the County Superintendent shall perform such duties without vouchers or other authorization from the various school districts or anyone else; repealing general or special laws in so far as they are in conflict or inconsistent with the provisions of this Act; and declaring an emergency. Acts 1943, 48th Leg., p. 217, ch. 136.

Art. 2700. Salary of the County Superintendent

Section 1. The elective County Superintendents shall receive from the Available School Fund of their respective counties annual salaries based on the scholastic population of such counties as follows:

Population	Amount
3,000 or less	\$1,800.00
3,001 to 4,000	2,000.00
4,001 to 5,000	2,200.00
5,001 to 6,000	2,400.00
6,001 to 7,000	2,600.00
7,001 to 8,000	2,800.00
8,001 to 9,000	3,000.00
9,001 to 12,000	3,200.00
12,001 to 15,000	3,400.00
15,001 to 30,000	3,600.00
30,001 to 40,000	3,800.00
40,001 to 50,000	4,200.00
50,001 and over	4,800.00

Provided, however, in counties having more than three thousand, five hundred (3,500) scholastics and less than eight thousand and one (8,001) scholastics, where no supervisor is employed and where the total expense for office assistants does not exceed Eighteen Hundred Dollars (\$1800) per annum, the salary of the County Superintendent may be set at a sum not to exceed Three Thousand Dollars (\$3,000) per annum by action of the County Board of Trustees.

In making the annual budget for County Administration expense the County School Trustees shall make allowance out of the State Available School Fund for salary and expenses of the office of the County Superintendent and the same shall be determined by the resident scholastic population of the county. It shall be the duty of the County Board of Trustees to file the budget for County Administration expense with the State Department of Education on or before September first of each scholastic year, the budget to be approved and certified to by the President of the County Board of Education and attested to by the County Superintendent. The compensation herein provided for shall be paid monthly upon the order of the County School Trustees; provided that the salary for the month of September shall not be paid until the County Superintendent presents a receipt from the State Superintendent showing that he has made all reports required of him. The County Superintendent, with the approval and the confirmation of the County Board of Education, may employ a competent assistant to the County Superintendent at an annual salary not to exceed Two Thousand Dollars (\$2,000) and may also employ such other assistants as necessary provided the aggregate amount of the salaries of such other assistants shall not exceed Twelve Hundred Dollars (\$1200) annually; provided that counties having a population of more than one hundred and twenty-five thousand (125,000) according to the last Federal Census may employ a competent assistant to the County Superintendent at an annual salary not to exceed Twenty-eight Hundred Dollars (\$2800) and may also employ such other assistants as necessary provided the aggregate amount of the salaries of such other assistants shall not exceed Eighteen Hundred Dollars (\$1800) annually; and the County Board of Education may make further provisions as it deems necessary for office and traveling expense of the County Superintendent; provided that expenditures for office and traveling expenses of the County Superintendent shall not be less than Three Hundred Dollars

(§300) and not more than Eight Hundred Dollars (\$800) per annum, such expense shall first be proven by affidavit therefor, and said Board is hereby authorized to fix the salary of such assistants and pay same out of the same funds from which the salary and expenses of the County Superintendent are paid.

Sec. 2. The County Superintendent of Public Instruction may, with the approval of the County Board of Education, employ one or more school supervisors to assist in planning, outlining, and supervising the work of the Public Free Schools in the county which is under the supervision of the County Superintendent of Public Instruction. Said supervisor or supervisors shall at all times work under the supervision and direction of the County Superintendent of Public Instruction, as other assistants are required to do, and must have evidence of proficiency in rural school supervision and must be the holder of at least a Bachelor of Science Degree or higher. Such supervisor or supervisors may receive a salary of not to exceed Two Thousand Dollars (\$2,000) per annum, to be paid out of the same funds and in the same manner as that of the County Superintendent of Public Instruction and other assistants.

Sec. 3. It shall be the duty of the State Superintendent to remit to the depository banks of each of the respective counties the amount of the State Available School Fund provided in the budget of each county, remittance to be made in October and February of each scholastic year, in equal amount.

Sec. 4. The State Superintendent of Public Instruction is hereby authorized to issue and transmit to county officials all instructions necessary for the proper observance and administration of this Act.

Sec. 5. All General and Special Laws in conflict herewith are hereby repealed except such laws as provide for a part of the office expense to be paid out of the general revenue of the county, except that the repealing clause shall not apply to any county that levies a special tax for the maintenance of the office of the County Superintendent in whole or in part. As amended Acts 1941, 47th Leg., p. 407, ch. 237; Acts 1943, 48th Leg., p. 697, ch. 388, § 1.

Filed without the Governor's signature,
May 18, 1943.

Effective May 18, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 2700.1 Salary and expenses of county superintendent; assistants; school supervisors; State Available School Fund, remittance of

Acts 1943, 48th Leg., p. 697, c. 388, amended article 2700 as amended by Acts 1941, 47th Leg., p. 407, ch. 237, to read as set

out under article 2700. See Historical Note under article 2700.

CHAPTER THIRTEEN—SCHOOL DISTRICTS

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| <p>4. TAXES AND BONDS</p> <p>Art. 2789c. Refunding bonds to pay tax anticipation notes or certificates of indebtedness; validation of bonds previously issued [New].</p> <p>2790a—5. Maintenance tax elections and proceedings validated [New].</p> <p>2802i—20. Independent districts of 200,000 to 260,000; maximum amount of bonds and maximum tax rate [New].</p> | <p>5. ADDITIONS AND CONSOLIDATIONS</p> <p>Art. 2806c. Validation of consolidations of common school districts with independent school districts and other consolidations [New].</p> <p>6. DISTRICTS IN LARGE COUNTIES</p> <p>2815g—29. Validation of school districts, bonds, tax levies and acts; exceptions [New].</p> <p>7. JUNIOR COLLEGES</p> <p>2815j—2. Appropriations to supplement local funds; regulation and allocation; eligibility [New].</p> |
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1. COMMON SCHOOL DISTRICTS

Art. 2751. Check for payment of teacher

Victory Tax, deduction when paying salaries, see article 2694a.

4. TAXES AND BONDS

Art. 2784. Taxing power

Cities and towns acquiring existing public utilities, payment of moneys in lieu of school taxes, see article 1118a—1.

Art. 2789c. Refunding bonds to pay tax anticipation notes or certificates of indebtedness; validation of bonds previously issued

Section 1. Any Independent School District is hereby authorized to issue negotiable refunding bonds for the purpose of providing funds to pay and cancel outstanding valid tax anticipation notes or certificates of indebtedness, and to levy a tax sufficient to pay such bonds and the interest thereon. Tax anticipation notes or certificates of indebtedness, as used in this Act, shall mean and include notes and certificates issued to borrow money for school purposes, and which were issued in anticipation of the collection of delinquent taxes and are secured by a pledge of delinquent taxes, even though, subsequent to the issuance of such notes or certificates, taxes which thereafter became delinquent were pledged in lieu of and to release taxes which were pledged originally to secure such notes or certificates. Provided, however, that no such bonds shall be issued, and no tax shall be levied therefor, unless and until authorized by a majority vote at an election called and held for that purpose. Provided further, that no bonds shall be issued for the purpose of paying notes or certificates issued in excess of fifty (50) per cent of the total amount of taxes delinquent at the time of their issuance.

Sec. 2. Such election shall be called and held in the manner prescribed by General Law with reference to the calling and holding elections for the issuance of school house bonds by independent school districts, except that the election may be called by the Board of Trustees of the district without the prerequisite of a petition. Such refunding bonds may

mature serially or otherwise in not to exceed fifteen (15) years, shall not bear a greater rate of interest than the notes or certificates to be funded thereby, and shall not be sold for less than par and accrued interest.

Sec. 3. Before any of said refunding bonds shall be sold, said bonds and the record pertaining to their issuance shall be submitted to the Attorney General of Texas for his examination; and if said bonds are issued in accordance with this Act, and are valid, he shall issue his certificate showing that he has examined the same, and that in his opinion said bonds are valid. Thereafter, said refunding bonds shall be registered by the Comptroller of Public Accounts, and by him delivered to the district or to its order. Such refunding bonds, after receiving the certificate of the Attorney General and having been registered in the Comptroller's office, shall be held in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds, a certified copy of the opinion of the Attorney General shall be admitted in evidence to show validity of said bonds, together with the coupons pertaining thereto. The only defense which can be offered against the validity of such bonds shall be forgery or fraud.

Sec. 4. In each instance where an election has been held heretofore, resulting favorably to the issuance of refunding bonds for the purpose of refunding, cancelling, and in lieu of such notes or certificates, and the levy of a tax for the payment of said bonds and the interest thereon, such refunding bonds may be sold and the proceeds used to pay and cancel such notes and certificates. In each such instance, the refunding bonds, the election authorizing their issuance, the tax voted for their payment, and the notes or certificates to be so refunded or paid, are all hereby validated; provided, however, that the validating provision of this Section shall not apply to any notes, certificates or bonds, the validity of which shall have been attacked in any litigation pending at the time this Act becomes effective.

Sec. 5. No such bonds shall be delivered to the purchaser thereof until an equal amount of tax anticipation notes or certificates of indebtedness, being refunded thereby, shall have been surrendered to and cancelled by the district. Such bonds may be delivered at one time, or in installments. Acts 1943, 48th Leg., p. 195, ch. 113.

Approved and effective April 8, 1943.

Title of Act:

An Act authorizing any Independent School District to issue refunding bonds to provide funds to pay and cancel outstanding tax anticipation notes or certificates of indebtedness as herein defined and subject to limitations herein prescribed, and to levy a tax sufficient to pay such bonds and the interest thereon; providing that no such bonds shall be issued and no such tax shall be levied until authorized by a majority vote at an election held for such purpose; providing for examination and approval thereof by the Attorney General and registration thereof by the Comptroller and prescribing the effect thereof; providing that in each instance where an election has been held heretofore resulting favorably to the is-

suance of such refunding bonds and the levy of such tax, such bonds may be sold and the proceeds thereof used for the payment of such notes or certificates; validating such refunding bonds heretofore voted, the election authorizing their issuance, the tax voted for their payment, the notes or certificates to be so refunded or paid; provided that said validating provision shall not apply to any notes, certificates or bonds the validity of which shall have been attacked in any litigation pending at the time when this Act becomes effective; providing that no such bonds shall be delivered until an equal amount of the notes or certificates being refunded shall have been cancelled; enacting other provisions relating to the subject hereof; and declaring an emergency. Acts 1943, 48th Leg., p. 195, ch. 113.

Art. 2790a—5. Maintenance tax elections and proceedings validated

Section 1. Whenever the Board of Trustees of any Independent School District in this State has heretofore called an election pursuant to Section 3 of Article VII of the Texas Constitution, and a majority

of the voters voting at such election, who are qualified voters and property taxpayers of such independent school district, have heretofore authorized the trustees of any such independent school district to levy, assess, and collect taxes for school maintenance purposes at any rate specified in the election order and notice of election, not to exceed One Dollar and Fifty Cents (\$1.50) on each one hundred dollars of assessed valuation, and the Board of Trustees of any such Independent School District has canvassed said vote and declared the results of said election in favor of the levy, assessment, and collection of such tax, all acts and proceedings had and done in connection therewith, including the order calling the election, notice of election, holding of election, canvassing the returns of the election, and declaring the results of same are hereby authorized, legalized, adopted, approved, ratified, and validated. It is the intention hereof to authorize, ratify, adopt, and confirm all acts and proceedings of the voters, Board of Trustees and election officials of any such Independent School District in respect to any such school tax election.

Sec. 2. All such School Districts, where the vote has heretofore been in favor of levying such maintenance tax shall have the power and authority to levy, assess and collect taxes at not to exceed the following rates per one hundred dollars of assessed valuation of taxable property, to wit:

For maintenance purposes One Dollar and Fifty Cents (\$1.50) per one hundred dollars of assessed valuation, or so much thereof as may have been authorized by the voters voting at such election; for bond interest and sinking fund purposes Fifty (50) Cents per one hundred dollars of assessed valuation, but the combined tax for both purposes shall never exceed One Dollar and Fifty Cents (\$1.50) per one hundred dollars of assessed valuation. Such taxes shall be assessed, levied and collected pursuant to the law applicable to such districts.

Sec. 3. Where the Board of Trustees and Tax Collector of any such Independent School District have heretofore levied and collected taxes at a rate in excess of One Dollar (\$1) per one hundred dollars of assessed valuation, pursuant to the authority granted in any such election, the action of such Board of Trustees and Tax Collector in so doing is hereby authorized, legalized, adopted, approved, ratified and validated.

Sec. 3a. The provisions of this Act will not apply in any district where any such election or any action or order in connection therewith is involved in litigation in any Court in this State, or may be before the effective date of this Act. Acts 1943, 48th Leg., p. 20, ch. 17.

Approved and effective Feb. 16, 1943.

Section 4 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating elections heretofore held in any Independent School District in this State, at which a maintenance tax for the amount and purposes stated was authorized by the qualified voters voting upon the proposition; validating all acts and proceedings of the Board of Trustees, voters and election officials in connection with any such election; authorizing all such school districts where the vote has

heretofore been in favor of levying such maintenance tax, to levy, assess, and collect taxes for maintenance purposes and for bond interest and sinking fund purposes at the rate specified herein, pursuant to the law applicable to such districts; validating all tax levies heretofore made by the trustees of any such district, pursuant to authority granted in any such election; providing this Act shall not apply in any district where the validity of such elections has been brought into question by pending litigation and not adjudicated prior to the effective date of this Act; and declaring an emergency. Acts 1943, 48th Leg., p. 20, ch. 17.

Art. 2802i—20. Independent districts of 200,000 to 260,000; maximum amount of bonds and maximum tax rate

In any independent school district having a population of more than two hundred thousand (200,000) and less than two hundred and sixty thousand (260,000), according to the Federal census of 1940 or any subsequent legally authorized census, the school district trustees of such independent district are hereby authorized and shall have the power to issue bonds and to levy and cause to be collected annual taxes, subject to the following provisions:

(1) For the maintenance of the public schools therein an ad valorem tax not to exceed One Dollar and Twenty-five Cents (\$1.25) on the one hundred dollars valuation of taxable property of the district; but 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 Twenty-five Cents (\$1.25) 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 Twenty-five Cents (\$1.25);

(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, a tax necessary to pay the current interest on and provide a sinking fund sufficient to pay the principal of bonds which said districts are empowered to issue for such purposes, such bonds not to exceed in amount seven (7) per cent of the valuation of taxable property of the district at the time they are issued;

(3) 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 purposes, at which none but property taxpaying qualified voters of such district shall be entitled to vote. Acts 1943, 48th Leg., p. 226, ch. 143, § 1.

Approved and effective April 16, 1943.

Section 2 of the Act of 1943 repealed 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 fixing the maximum amount of bonds which may be issued by, and fixing the maximum rate of tax to be levied for school purposes in, all independent school

districts having a population of more than two hundred thousand (200,000) and less than two hundred and sixty thousand (260,000), according to the Federal census of 1940 or any subsequent legally authorized census, whether under general or special law, subject to certain provisions; repealing all laws in conflict herewith, both general and special; and declaring an emergency. Acts 1943, 48th Leg., p. 226, ch. 143.

5. ADDITIONS AND CONSOLIDATIONS

Art. 2806c. Validation of consolidations of common school districts with independent school districts and other consolidations

All consolidations or attempts at consolidation of one or more common school districts with one or more independent school districts and all consolidations of consolidated independent school districts with a county line common school district lying in two (2) or more counties and all consolidations or attempts at consolidation wherein a county line independent school district is divided and consolidated with contiguous independent school districts lying in two (2) or more counties after an election was held and a majority of the legally qualified voters in each of such districts voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as if they had been so consolidated or established in the first

instance. Provided, however, the provisions of this Section shall not apply in any instance where the consolidation or consolidations are in litigation in any of the Courts of this State at the time of the passage of this Act. Acts 1943, 48th Leg., p. 197, ch. 115, § 1.

Approved and effective April 8, 1943.

Section 2 of the Act of 1943 repealed 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 validating consolidation of certain common school districts, independent school districts and consolidated independent school districts and county line school

districts, both independent and common and consolidation of such districts wherein one or more are divided, wherein a majority of the voters of each of the affected districts approve such a consolidation at an election held for such purpose; providing however, such validation shall not apply to districts now in litigation; repealing all laws in conflict herewith; and declaring an emergency. Acts 1943, 48th Leg., p. 197, ch. 115.

Art. 2815. Dissolution; withdrawal

(a) Such consolidated districts may, in the same manner provided for their consolidation, be dissolved and the districts included therein restored to their original status, except that it shall not be necessary to provide polling places in each district. Each such district when so restored shall assume and be liable for its prorata part of the outstanding financial obligations of the consolidated district, such prorata part to be based on the relation the total assessed valuation of all property in the district bears to the total assessed valuation of property in the consolidated district, as shown by the assessment rolls of the district for the current year. No election for the dissolution of said consolidated districts shall be held until three (3) years have elapsed after the date of the election at which such districts were consolidated.

(b) On the petition of twenty (20), or a majority, of the legally qualified voters of any common school district, or independent school district, praying for the withdrawal from a consolidated district, if three (3) years have elapsed after the date of the election at which such districts were consolidated, the County Judge shall issue an order for an election to be held in the district desiring withdrawal. 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 on which such elections are ordered, or by posting a notice of such election in the district desiring the election. The Commissioners Court shall at its next meeting canvass the returns of such election, and if the votes cast in said district show a majority in favor of withdrawing from the consolidation, the Court shall declare the district severed and it shall be restored to its original status. Each such district when so restored shall assume and be liable for its prorata part of the outstanding financial obligations of the consolidated district, such prorata part to be based on the relation the total assessed valuation of all property in the district bears to the total assessed valuation of property in the consolidated district, as shown by the assessment rolls of the district for the current year. As amended Acts 1943, 48th Leg., p. 475, ch. 317, § 1.

Approved May 13, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

6. DISTRICTS IN LARGE COUNTIES

Art. 2815g—29. Validation of school districts, bonds, tax levies and acts; exceptions

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 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, 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, and all bond assumption tax elections following consolidation elections 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 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 districts.

All acts of the County Boards of Trustees of any and all counties in rearranging, changing, or sub-dividing 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.

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 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 Act shall be held by any Court of competent jurisdiction to be invalid, as unconstitutional, or for other reasons, it shall not affect any other phrase, word, clause, sentence, paragraph, section or part of this Act. Acts 1943, 48th Leg., p. 548, ch. 327.

Approved May 14, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 5 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to validate the organization and creation of all school districts, including common school districts, independent 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 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 (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 bond assumption elections and 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 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 saving clause; and declaring an emergency. Acts 1943, 48th Leg., p. 548, ch. 327.

7. JUNIOR COLLEGES

Art. 2815j—2. Appropriations to supplement local funds; regulation and allocation; eligibility

Section 1. There shall be appropriated biennially from moneys in the State Treasury not otherwise appropriated an amount sufficient to supplement local funds in the proper support, maintenance, operation, and improvement of the Public Junior Colleges of Texas, which meet the standards as herein provided; and said sum shall be allocated on a basis and in a manner hereinafter provided.

Sec. 2. To be eligible for and to receive a proportionate share of this appropriation, a Public Junior College must be accredited as a first-class Junior College by the State Department of Education, and the State Department of Education is hereby authorized to set up rules and provisions by which Public Junior Colleges may be inspected and accredited. And provided further that to be eligible to participate in any biennial appropriation, each Public Junior College shall offer a minimum of twenty-four (24) semester hours of vocational and/or terminal courses. And provided further that in order to be eligible to participate in any biennial appropriation each Public Junior College shall have complied with all existing laws, rules and regulations governing the establishment and maintenance of Public Junior Colleges. It shall be mandatory that each institution participating in the funds herein provided shall collect from each pupil enrolled, matriculation and other session fees not less than the amounts provided for by law and by other State-supported institutions of higher learning; as provided in Articles 2654a, 2654b and 2654c, Revised Civil Statutes of Texas. Provided that all of the funds allocated under the provisions of this Act, with the exception of those necessary for paying the costs of audits as provided herein, shall be used exclusively for the purpose of paying salaries of the instructional forces of the several institutions.

Sec. 4-a. No funds shall be paid to any institution under the provisions of this Act until the payment has been approved by the State Auditor after he has audited the books of the institution. The cost of such audit shall be paid out of the funds allocated herein. Acts 1943, 48th Leg., p. 257, ch. 157.

Approved April 22, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 3 of the Act of 1943 made an annual appropriation of \$286,500 for each

of the fiscal years beginning September 1, 1943 and September 1, 1944, respectively and for the allocation thereof among the junior colleges therein named, and further provided: "that each of the above

Public Junior Colleges shall qualify within the requirements of this Act; and provided further that the funds here appropriated shall be disbursed to and distributed among the Public Junior Colleges which qualify to receive it on the basis of Fifty Dollars (\$50) per capita for each full-time student per scholastic year or equivalent thereof if the calendar year is divided into more than two (2) terms; provided that the term "full-time student" shall not include members of the Armed Forces of the United States of America and auxiliaries thereof or members of the Armed Forces Reserve of the United States of America and auxiliaries thereof and any other students whose expenses are paid by the United States Government; and providing that "full-time student" as herein used is defined as a student doing fifteen (15) semester hours of work, and that the number of full-time students enrolled in any school to be benefited by this Act shall be determined by dividing the total number of semester hours of work carried by all students of the school, as of November 1st, in any fiscal year, by fifteen (15)."

Sec. 4 read as follows: "Any amount appropriated and not used during the fiscal year beginning September 1, 1943, and ending August 31, 1944, is herein placed to the credit of said Public Junior Colleges to be used as other appropriations during the next fiscal year. Any amount appropriated and not used during the fiscal year beginning September 1, 1944, and ending August 31, 1945, shall revert to the General Revenue Fund of the State of Texas."

Section 5 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing for and regulating appropriations for moneys in the State Treasury not otherwise appropriated to supplement local funds for the support, maintenance, operation, and improvement of the Public Junior Colleges of Texas as named in this Act; providing all funds allocated under the provisions of this Act with the exception of those necessary for paying the costs of audits as provided herein shall be used exclusively for the purpose of paying salaries of the instructional forces of the several institutions; providing for an annual appropriation of Two Hundred Eighty-six Thousand Five Hundred Dollars (\$286,500) for each of the fiscal years beginning September 1, 1943, and September 1, 1944, respectively, and for allocation thereof; determining the eligibility of a Public Junior College and providing for collection of certain fees from students; defining the term "full-time student" and excepting certain students; providing for disposition of unused funds; providing no funds shall be paid to any institution under the provisions of this Act until payment has been approved by the State Auditor after he has audited the books and providing the cost of auditing the books of the institution shall be paid out of the funds allocated herein; and declaring an emergency. Acts 1943, 48th Leg., p. 257, ch. 157.

CHAPTER SEVENTEEN—TEACHERS' CERTIFICATES

2. CLASSES OF CERTIFICATES

Art.

2889b. Deaf and blind, certificate to teach; persons qualified to teach in Texas School for Deaf or Texas School for Blind [New].

1. ISSUANCE OF CERTIFICATES

Art. 2883. Salaries

Victory tax, deduction when paying salaries, see article 2694a.

2. CLASSES OF CERTIFICATES

Art. 2889a. Special certificate

(1) Any person who for four years or more has been the holder of a State First Grade Certificate or its equivalent, and who can furnish evidence of successful experience in teaching in the public schools of Texas for six or more sessions subsequent to September 1, 1910, shall be entitled to receive a State First Grade Certificate or its equivalent valid for three years. The provisions of sub-paragraph (1), Section 1, of this

Act, and sub-paragraph (1) of Section 1 only, shall expire and be of no further force and effect after September 1, 1945.

(2) Any person who has been engaged in teaching a special subject in the public school for a period of four years, and who has been employed to teach the said subject during the last three years prior to September 1, 1925, shall be exempt from the requirement to hold a Teacher's Special Certificate so long as she or he continues to be employed to teach the same subjects; provided that any person who has been engaged in the teaching of music or writing and drawing in the public schools of Texas for ten years shall be exempt from the present law and be given a life certificate in that subject.

(3) Any teacher who applies for a Texas Teacher's Certificate on credentials from another state may be granted by the State Superintendent an emergency certificate valid for four months, while the record is being completed, prior to determining the kind and class of certificate, if any, to be issued to the applicant. The applicant shall be required to pay the same fee for the issuance of an emergency certificate as is required by law to be paid on application for other teacher's certificates.

(4) Any person who is employed to teach any trade or industry in the public schools may, upon application to the State Superintendent, signed by the majority of the board of trustees of the school desiring his services, be issued a temporary permit to teach said trade without being required to hold the special certificate prescribed by law; provided that no permit may be granted for a longer term than two years and provided further that the fee for issuing said permit shall be the same as is required by law for the issuance of teacher's certificates. As amended Acts 1943, 48th Leg., p. 686, ch. 379, § 1.

Approved May 17, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory act of 1943 read as follows: "The provisions of this Act are cumulative of the laws now in force regulating the issuance of teacher's

certificates and all laws and parts of laws in conflict with the provisions expressed herein are hereby repealed."

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 2889b. Deaf and blind, certificate to teach; persons qualified to teach in Texas School for Deaf or Texas School for Blind

Section 1. Any person who has attained eighteen (18) years of age and who has satisfactorily completed a four-year course of study in an "A" or an accredited college, professional or technical school, or an approved teacher-training center, graduating with a degree including ten (10) semester hours of education with not less than five (5) semester hours of principles and methods of teaching that type of handicapped children they are being certified to teach, shall be granted a Permanent First Class Teachers Certificate to teach the deaf and blind.

Sec. 2. In cases of teachers of industrial and special subjects, four years of trade or professional experience or successful teaching experience may be substituted for college work. Certificates issued in these industrial and special subjects shall be limited to those subjects and authorize the holder to teach that subject in the School for the Deaf or Blind.

Sec. 3. Any teacher who has had five years of successful teaching experience of the particular type of handicapped child, subsequent to 1935, shall be granted a Permanent First Class Teachers Certificate entitling him to teach that type of handicapped child, or that industrial and special subject in the School for the Deaf or the School for the Blind.

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

Sec. 4. This Act does not in any way invalidate any certificate issued under the laws of the State of Texas. Any person now holding a valid Teachers Certificate or who may hereafter be granted a certificate may be deemed qualified to teach in the Texas School for the Deaf or the Texas School for the Blind. Acts 1943, 48th Leg., p. 54, ch. 49.

Approved and effective March 6, 1943.

Section 5 of the amendatory Act of 1943 read as follows: "Sec. 5. The fact that there is no law authorizing the Department of Education to issue Certificates to teachers of the handicapped, and the law does make it mandatory that all teachers drawing public funds be certified, and many teachers in the Texas School for the Deaf and the Texas School for the Blind are not certified creates an emergency and an imperative public necessity to the effect that the Constitutional Rule requiring bills to be read on three several days in each House be and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Title of Act:

An Act authorizing the State Department of Education to issue State Teachers Certificates to teachers of the deaf or the blind; fixing the requirements for such teachers in both academic and vocational subjects; limiting these teachers with special qualifications to such special schools; providing no certificate issued under Laws of the State of Texas is thereby invalidated; providing that teachers holding or hereafter granted valid teachers certificates may be deemed qualified to teach in the schools mentioned in the Act; and declaring an emergency. Acts 1943, 48th Leg., p. 54, ch. 49.

CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art. 2911. Prescribed studies

All public schools in this State shall be required to have taught in them orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, composition, mental arithmetic, Texas history, United States history, civil government, elementary agriculture, cotton grading, and other branches as may be agreed upon by the trustees or directed by the State Superintendent; provided, that the subject of elementary agriculture shall not be required to be taught in independent school districts having a scholastic population of three hundred (300) or more unless so ordered by the school boards. Suitable instruction shall be given in the primary grades as acts regarding kindness to animals and the protection of birds and their nests and eggs. Elementary agriculture shall include certain practical field studies and laboratory experiments as prescribed by the county school trustees in conformity to law and the requirements of the State Superintendent. Each summer normal institute and each county teachers institute shall employ at least one instructor who shall be selected because of his special preparation to give instruction in agriculture. All of the above-mentioned schools shall be required to have taught in them physiology and hygiene. The effects of alcohol and narcotics shall be taught in all grades of the public schools and in all of the colleges and universities that are wholly or in part supported by State funds.

Provided that this shall not require the immediate adoption of textbooks to carry into effect the requirement that the effects of alcohol and other narcotics be taught in all of the Public Schools and in all colleges and universities that are wholly or in part supported by State funds and provided further that at the next adoption of textbooks on physiology and hygiene it be required to be taught in all of the above-mentioned schools. All textbooks on physiology and hygiene purchased in the future for use in the public schools of this State shall include at least one chapter on the effects of alcohol and narcotics, but this shall not be construed as a requirement that duly adopted textbooks in use at the present time be discarded until full use of said books is

had as in ordinary cases. As amended Acts 1943, 48th Leg., p. 599, ch. 344, § 1.

Approved May 15, 1943.
Effective 90 days after May 11, 1943, date
of adjournment.

Section 2 of the amendatory Act of 1943
declared an emergency but such emergen-
cy clause was inoperative under Const. art.
3, § 39.

CHAPTER TWENTY—TEACHERS' RETIREMENT

Art. 2922—1. Teachers' Retirement System; definitions

Section 1.

(14) "Current interest" shall mean interest at a rate per centum per annum ascertained each year by dividing (1) the amount in the Interest Fund on August 31st of such year before the transfer of interest to other funds, less an amount equal to three and one-half (3-½) per centum of the sum of the mean amount in the Membership Annuity Reserve Fund during such year, and the mean amount in the Prior-Service Annuity Reserve Fund during such year, and less an amount not to exceed Fifty (50) Cents per member of record as of August 31st of that year as may be set annually by the Board of Trustees, by (2) an amount equal to the amount in the State Membership Accumulation Fund at the beginning of such year plus the amount in the Permanent Retirement Fund at the beginning of such year and plus the sum of the accumulated contributions in the Teacher Saving Fund at the beginning of such year to the credit of all members included in the membership of the System on August 31st of such year, before any transfers for Service Retirement effective August 31st of such year are made, it being provided that the above division shall be carried to only three (3) decimal places and shall never be taken as greater than three and one-half (3-½) per cent. As amended Acts 1943, 48th Leg., p. 676, ch. 377, § 1.

Membership

Sec. 3.

(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. However, during the time the United States is in a state of war and for a period of twelve (12) months thereafter, time spent by a member of the Teacher Retirement System (1) in the Armed Forces of the United States of America and their auxiliaries and/or in the Armed Forces Reserve of the United States of America and their auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereinto, or (2) in war work as a direct result of having been drafted and/or conscripted into said war work, shall not be construed as absent from service in so far as the provisions of this Act are concerned, but shall count towards membership service. As amended Acts 1943, 48th Leg., p. 676, ch. 377, § 2.

Benefits

Sec. 5.

1. Service Retirement Benefits.

Any member 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 and shall have completed twenty (20) or more years of creditable service, and

provided further that no retirement shall be effective prior to August 31, 1941. 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. Any member who has accepted service retirement shall be ineligible and disqualified to resume and/or continue teaching in the public schools of Texas, and also shall be ineligible and disqualified to be otherwise employed as a teacher under this Act; provided, however, that during the present world conflict, commonly called "World War II," and for a period of twelve (12) months thereafter, a retired member who retired August 31, 1942, and prior thereto (and only such retired members), shall not be ineligible and disqualified as above stated but may be employed as a teacher under the terms of this Act; provided, however, that during said time that a retired member is so employed, retirement benefit payments that would otherwise have been paid to said member shall be suspended and shall be resumed again when said member leaves said employment permanently; provided further that during the time that said retired teacher member is employed as a teacher, as above specified and limited, no retirement deductions shall be made from his salary, and the retirement benefits that are paid to said retired member after the benefits are again resumed shall be in the same amount as were paid on the original retirement; provided that if a retired member returns to teaching as above outlined, during the time he is so teaching, both the membership annuity payment and the prior service annuity payment, to which said retired member would have been entitled if he had not so returned to teaching, shall be transferred to the State Membership Accumulation Fund; provided further that if a retired member who elected to receive an annuity in a guaranteed payment for a certain number of years after retirement returns to teaching as above specified, the time so spent teaching by such retired member after the initial or original retirement shall count as time within said certain number of years the same as if said retired member had not returned to teaching; provided further that any retired member who accepts employment as a teacher, except in the present world conflict and for twelve (12) months thereafter, as above specified, shall forfeit all rights as a retired teacher and any and all claims to any retirement benefits under this Act; provided further that every retired member is charged with the knowledge of all these provisions and by returning to teaching shall be deemed to have accepted the same. As amended Acts 1943, 48th Leg., p. 676, ch. 377, § 3.

Management of funds

Sec. 7.

(2) The State Board of Trustees annually, on August 31st, shall in accordance with Subsection 7(d) of Section 8 of this Act transfer from the Interest Fund to the Expense Fund an amount not to exceed Fifty (50) Cents per member of record as of August 31st of that year, as shall be determined by the Board to be necessary for the payment of expenses of the Retirement System in excess of the amount available to be paid from the Expense Fund to cover the expenses as estimated for the succeeding year. The State Board of Trustees annually, on August 31st, shall allow regular interest on the mean amount in the Membership Annuity Reserve Fund for the year then ending and shall allow regular interest on the mean amount in the Prior-Service Annuity Reserve Fund for the year then ending and shall allow current interest as defined in Section 1, Subsection (14) of this Act on the amount in the State Membership Accumulation Fund at the beginning of such year and on the amount in the Permanent Retirement Fund at the beginning of such year and on an amount in the Teacher Saving Fund equal to the sum of the accumulated contributions standing to the credit at the beginning of such

year of all members included in the membership of the System on August 31st of such year, before any transfers for Service Retirement effective August 31st of such year are made. The amounts so allowed shall be due and payable to said funds and shall be credited thereto by the State Board of Trustees on August 31st of each year from the moneys of the Retirement System held in the Interest Fund, provided that current interest shall not be at a rate greater than three and one-half (3- $\frac{1}{2}$) per cent per annum and that any excess earnings over such amount required shall be paid to the Interest Reserve Account of the Permanent Retirement Fund. As amended Acts 1943, 48th Leg., p. 676, ch. 377, § 4.

Method of financing

Sec. 8.

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 current 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 and Eighty Dollars (\$180) during any one (1) year. Deductions shall begin with the first pay roll period of the school year 1937-38. 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 (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) During the time that the United States is in a state of war and for twelve (12) months thereafter, a member of the Teacher Retirement System (1) in the Armed Forces of the United States or their auxiliaries and/or in Armed Forces Reserve of the United States and their auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereinto, or (2) in war work as a direct result of having been drafted and/or conscripted into said war work, shall be permitted to contribute each year to the Retirement System a sum not to exceed the amount contributed by him

to said Retirement System during the last year that he was employed as a teacher under the provisions of this Act. The sum so contributed by such member and received by the Retirement System shall be deposited by said Retirement System in the Teacher Saving Fund to the credit of the member's individual account and shall be treated in the same manner as funds contributed by the member while he was employed as a teacher under the provisions of this Act.

(e) Current Interest on members' contributions shall be credited annually as of August 31st and shall be allowed on the amount of the accumulated contributions standing to the credit of the member at the beginning of the year and shall 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.

(f) Upon the retirement of a member, his accumulated contributions shall be transferred from the Teacher Saving Fund to the Membership Annuity Reserve Fund. As amended Acts 1943, 48th Leg., p. 676, ch. 377, § 5.

5. Interest Fund.

The Interest Fund is hereby created to facilitate the crediting of interest to the various other funds. 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, interest shall be allowed and transferred to the other funds, respectively. 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 interest-bearing funds and the Expense Fund have been duly credited with interest for the year in the manner provided in this Act. As amended Acts 1943, 48th Leg., p. 676, ch. 377, § 6.

7. 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 Dollar (\$1), 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; provided, however, that if said payment for the Expense Fund of any member is not made with said first payment of said member, the State Board of Trustees may deduct the amount of the payment for the Expense Fund from said first payment of said member.

(c) If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of One Dollar (\$1) per contributor 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 ac-

count 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) If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of One Dollar (\$1) per contributor for the year and if there is an insufficient amount in the interest reserve account of the Permanent Retirement Fund to pay such excess, the State Board of Trustees, as evidenced by a Resolution of that Board recorded in its minutes, shall transfer to the Expense Fund, from the Interest Fund, an amount necessary to cover the expenses as estimated for the year, but in no event shall the amount so transferred exceed, in any one year, Fifty (50) Cents per member of record as of August 31st of that year. As amended Acts 1943, 48th Leg., p. 676, ch. 377, § 7.

8. 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 Saving 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) Any member of the Teacher Retirement System from whose salary prior to August 31, 1943, a deduction or deductions have not been made, but which should have been made, in accordance with the provisions of this Act, may elect to pay such sums that should have been deducted, on such terms as are determined by the State Board of Trustees, and thus receive the credit for prior service and membership service to which the member may be entitled for teaching under the provisions of this Act prior to August 31, 1943, or not to pay such sums and thus acquire the status of a beginning teacher as of September 1, 1943, or if said member is not teaching at that time, as of the date when the member resumes teaching under the Act. Provided, the provisions of this Act shall apply only to deductions which should have been made from salaries of teachers prior to August 31, 1943, and to no other time.

(d) 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.

(e) 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, the State Board of Trustees shall certify to the State Board of Control for its review and adoption the amount necessary to pay the contributions 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. The State Board of Trustees shall certify on or before August 31st of each year to the State Comptroller of Public Accounts and to the State Treasurer the estimated amount of contributions to be received from members during the ensuing year.

(b) All moneys allocated and appropriated by the State to the Retirement System shall be paid to the Teacher Retirement System in monthly installments as provided in House Bill No. 8, Acts of the Regular Session, Forty-seventh Legislature.¹ Each of said monthly installments shall be paid into the State Membership Accumulation Fund and the Prior-Service Annuity Reserve Fund in the proportional amounts certified by the State Board of Trustees. As amended Acts 1943, 48th Leg., p. 676, ch. 377, § 8.

Protection against conversion of funds and fraud

Sec. 10. Any person who shall confiscate, misappropriate, or convert moneys representing deductions from teachers' salaries before such moneys are received by the Retirement System or after such moneys are received by the Retirement System shall be guilty of a felony 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). 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 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). 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 re-

ceive 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 manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Violation of Provisions. Any person, including any county superintendent or ex officio county superintendent, and any member of the employer and/or its treasurer or proper disbursing officer, who violates any of the provisions of this Act other than those to which the first paragraph of this Section applies shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000). Any member of the System who knowingly receives money as salary, which money should have been deducted from his salary under the provisions of this Act, shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500.). The teacher's certificate of any person who violates the provisions of this Act may be cancelled by the State Superintendent of Public Instruction after the State Superintendent has been notified of such violation by the State Board of Trustees of the Teacher Retirement System and after the holder of the certificate has been notified by the State Superintendent and given an opportunity to be heard. Appeal from the decision of the State Superintendent shall, if made, be to the State Board of Education, the decision of which shall be final. Provided that it shall not be a prerequisite for action by the State Superintendent and/or the State Board of Education, as outlined, that any such holder shall first have been prosecuted and/or fined. As amended Acts 1943, 48th Leg., p. 676, ch. 377, § 9.

¹Acts 1941, 48th Leg., p. 269, ch. 184.

Approved and effective May 28, 1943.

Section 10 of the amendatory Act of 1943 read as follows: "If any provision of this Act is for any reason held to be unconstitutional, void, or invalid, the validity of

the remaining portion shall not be affected thereby."

Section 11 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 50—ELECTIONS

CHAPTER ONE—MISCELLANEOUS PROVISIONS

Art. 2929a. Resignation required before running for another office [New].	Art. 2929a—1. Commencement of term of office [New].
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Art. 2929a. Resignation required before running for another office

No person who has been elected or appointed to an executive or administrative public office in the State of Texas for a term of more than two (2) years shall be eligible to run for nomination or election to any other public office the term of which would begin before the expiration of the term of the original office to which he was elected or appointed, without first resigning from the office to which he has been elected or appointed. No election official shall place the name of such ineligible person on the ballot for any election or certify his name as a candidate or nominee, and the District Court shall have authority to issue writs of injunction and all other necessary process at the suit of any interested party, or of any qualified voter, to enforce the provisions of this Article, as provided herein and in the other laws of this State relating to ineligible candidates for public office, and such suit shall have precedence over all others on the dockets of the Courts upon trial and appeal.

The term "executive or administrative public office" as used in this Act shall mean all public offices which have a term of more than two (2) years, except the Legislative and Judicial offices of Members of the Legislature and Judges of the Courts of Texas. Added Acts 1943, 48th Leg., p. 375, ch. 251, § 1.

Approved May 6, 1943.

Effective 90 days after May 11, 1943 date of adjournment.

Section 2 of the amendatory Act of 1943 repealed all conflicting laws and parts of laws.

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 2929a, as derived from Acts 1937, 45th Leg., p. 1320, ch. 486, § 1, is now set out as 2929a—1.

Art. 2929a—1. 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 first day of January next following the General Election at which said respective State and District officers were elected. Acts 1937, 45th Leg., p. 1320, ch. 486, § 1.

Section 2 of the 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., p. 1320, ch. 486.

CHAPTER FIVE—SUFFRAGE

Art.

2960a. Persons in armed forces and auxiliaries and nurses; exemption after discharge [New].

Art. 2960a. Persons in armed forces and auxiliaries and nurses; exemption after discharge

After the United States of America has ceased the prosecution of the war and has concluded a peace with all of her enemies commonly known as the Axis Powers, all members who have served, or, are now serving, or, who may hereafter serve in the armed forces of the United States of America, and all nurses, and all members of the Women's Army Auxiliary Corps and all members of the Women's Auxiliary Volunteer Emergency Service, who shall have been honorably discharged from such services shall be entitled to vote during the first calendar year after such discharge without having paid a poll tax under the laws of the State of Texas, provided, such discharged members of the armed forces, such nurses, such members of the Women's Army Auxiliary Corps and members of the Women's Auxiliary Volunteer Emergency Service were still in the armed forces on January 31st immediately preceding such discharge and because thereof were not permitted to be personally present and purchase such poll tax. Any and all persons claiming the benefits of this Article shall possess all of the other qualifications as to age, residence, etc., as required and provided for under this title. All such persons shall be issued exemption certificates which may be obtained in the same manner as elsewhere provided for under this title from all officers authorized by law to issue poll tax receipts and/or exemption certificates, and all such officers shall grant the same to the persons entitled thereto under the provisions of this Act which shall entitle the recipient thereof to the privilege of voting as provided hereunder, but no certificate of exemption shall be issued at a date later than fifteen (15) days immediately preceding the date of the election in which the holder of the exemption certificate expects to vote during such year. The exemption certificate shall be in substantially the following form:

CERTIFICATE OF EXEMPTION FROM THE PAYMENT OF POLL TAX

The State of Texas, County of _____, Precinct No. _____
 I, _____, Tax Collector for said County, of the State of Texas, do hereby certify that _____ personally appeared before me on the _____ day of _____, A. D. 19____, and being duly sworn declared his name to be _____, that his race is _____, that he is _____ years old, that he has resided in the State of Texas for _____ years, in _____ County for _____ years, and in _____, Texas, for _____ years; and that he now and has for the past _____ years resided in Precinct No. _____ and/or Ward No. _____ in said County, and/or city, and that his street address is _____ Street, or that his rural address is _____, and that he is exempt from the payment of a poll tax for the year 19____ for the reason that he was a member of the armed forces, a nurse, a member of the Women's Army Auxiliary Corps, or a member of the Women's Auxiliary Volunteer Emergency Service of the United States on January

31, 19—— and that—he is a qualified voter under the Constitution and laws of the State of Texas.

Given under my hand and seal of office this the —— day of ——, A. D., 19——.

(Signed) _____

Tax Collector _____ County, Texas.

In the event the exempt voter, holding certificate under this Article, shall remove from one voting precinct to another within the county, he shall only be required to present his certificate of exemption to the Tax Assessor and Collector for endorsement, which endorsement shall show the date of removal, and the date of endorsement, the new address and precinct to which such voter has removed, which endorsement shall be under seal and signed by the County Tax Assessor and Collector.

In the event the exempted voter holding certificate under this Article shall remove from the county in which he resided when same was issued, to another county in this state, he shall be required to present his certificate of exemption to the Assessor and Collector of taxes of the county of his new residence for reissue of registration and endorsement at least ten days before any election at which he expects to vote.

In the event of the loss of certificate of exemption, the voter may secure a reissue under his old number by making affidavit of such loss before the County Tax Assessor and Collector. Added Acts 1943, 48th Leg., p. 570, ch. 338, § 1.

Approved and effective May 15, 1943.

Section 2 of the Act of 1943 read as follows: "It is the purpose and intention of this Article to grant to members of the armed forces, nurses, members of the Women's Army Auxiliary Corps and members of the Women's Auxiliary Volunteer Emergency Service of the United States the privilege of voting in all elections of the State of Texas during the calendar year of their discharge where such mem-

ber or nurse was still a member of the armed forces on January 31st of such year. And it is not the purpose of this Article to exempt such persons as are herein named from any other requirements provided for under Title 50, entitled Elections [articles 2923-3173], except the payment of a poll tax."

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

CHAPTER THIRTEEN—NOMINATIONS

1. BY PARTIES OF ONE HUNDRED THOUSAND VOTES AND OVER

Art.

3109a. Minimum number of official ballots for each county, in primary elections; names of candidates for county commissioner [New].

1. BY PARTIES OF ONE HUNDRED THOUSAND VOTES AND OVER

Art. 3109a. Minimum number of official ballots for each county in primary elections; names of candidates for county commissioner

Section 1. In primary elections involving the election of County Commissioners, in addition to the other officers, the county committee in each county in this State shall be required to print a minimum of four (4) different official ballots for primary elections, as otherwise required by Article 3109, Revised Civil Statutes of Texas, 1925, to differ with respect to the office of County Commissioner for each commissioner's precinct in the county. Each official ballot, in addition to the names of candidates for other offices as prescribed in Article 3109, shall contain the names of candidates for the office of County Commissioner in not more than one commissioner's precinct in the county. The election officials for each voting precinct shall be furnished such official ballots which contain the names

of candidates for the office of County Commissioner which are to be voted on by the voters in the particular election precinct. If the election precinct includes more than one, or parts of more than one commissioner's precinct, the election officials shall be furnished with appropriate official ballots for each commissioner's precinct. Election officials in each voting precinct shall be required to determine in which commissioner's precinct a voter resides before furnishing him with an official ballot, and shall furnish him with the official ballot containing the names of candidates for the office of county commissioner which the voter is entitled to vote upon. In all other respects, the official ballot for primary elections provided for in Article 3109 shall be subject to regulations contained in Article 3109 and other applicable Statutes.

Sec. 2. This law is cumulative and shall not prohibit the printing of ballots corresponding to various precinct offices. Acts 1943, 48th Leg., p. 215, ch. 134.

Approved April 12, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 3 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act regulating the official ballot and requiring the county committee to print a minimum of four (4) different official ballots for each county for primary elections, otherwise as pursuant to Article 3109, Revised Civil Statutes of Texas, 1925, and other applicable statutes, differing only with respect to the office of County Commissioner for each commissioner's precinct

in the county; providing for the furnishing of same to election officials corresponding to commissioner's precincts and for each precinct if the election precinct includes more than one or parts of more than one precinct, and requiring such officials to determine in which commissioner's precinct a voter resides before furnishing him with a ballot which shall contain the names of candidates for commissioner upon which he is entitled to vote; providing this Act shall be cumulative and shall not prohibit printing of ballots corresponding to various precinct offices; and declaring an emergency. Acts 1943, 48th Leg., p. 215, ch. 134.

Art. 3112. 3100 Request for district office

Any person desiring his name to appear on the official ballot as a candidate for the nomination for Chief Justice or Associate Justice of the Court of Civil Appeals, or for Representative in Congress, or for State Senator when such Senatorial District is composed of one or more than one County, or for Representative, or district judge or district attorney in representative or judicial districts composed of one or more than one county, shall file with the chairman of the executive committee of the party for the district, said request with reference to a candidate for a State nomination, or if there be no chairman of such district executive committee, then with the chairman of each county composing such district, not later than the third Monday in May preceding the general primary. Such requests may likewise be filed not later than said date by any twenty-five (25) qualified voters resident within such district, signed and duly acknowledged. Immediately after said date each such district chairman shall certify the names of all persons for whom such requests have been filed to the county chairman of each county composing such district. If said name is not submitted or filed within said time, same shall not be placed upon said ballot. As amended Acts 1943, 48th Leg., p. 337, ch. 218, § 1.

Approved May 4, 1943.

Effective 90 days after May 11, 1943 date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 3116b. Repealed. Acts 1943, 48th Leg., p. 252, ch. 153, § 1. Eff. April 20, 1943

Jury trial, necessity, see articles 3193c—1, 3193c—2.

TITLE 51—ELEEMOSYNARY INSTITUTIONS

CHAPTER ONE—GENERAL PROVISIONS

Art. 3183b. Eminent domain exercised by charitable and eleemosynary corporations

State Board of Control, power of eminent domain, see article 693a.

CHAPTER TWO—STATE HOSPITALS

Art.

3193o—2. Jury trial, commitment for more than 90 days without forbidden; inventory and appraisal; copies to institution and Board of Control [New].

Art. 3184. Superintendent; qualifications; removal; State Board of Control, powers as to witnesses; witness fees

Section 1. The Superintendent of each State Hospital shall be a married man, a skilled physician authorized to practice medicine in Texas, and shall have not less than five (5) years experience in the treatment of mental diseases. He shall reside at the hospital with his family and shall devote his time exclusively to the duties of his office, and may be removed by the State Board of Control for good cause after a trial in a court of competent jurisdiction in Travis County, Texas, and a judicial determination of whether good cause exists for such removal.

Sec. 2. Good cause, as referred to in the preceding Article means commission of any felony or any other offense involving moral turpitude or of the failure and refusal of any Superintendent of any eleemosynary institution in the State of Texas to knowingly and willfully refuse to carry out the duties prescribed by the Legislature or by the State Board of Control.

Sec. 3. On and after September 1, 1943, the State Board of Control is authorized to enter into contract with any person having the qualifications hereinabove provided, as an employee of the State Board of Control, to act as Superintendent of any eleemosynary institution of the State of Texas, to which such Superintendent may be assigned, until such person is removed for good cause, as that term is defined in the preceding Article.

Sec. 4. Any member of the State Board of Control shall hereafter have the authority to administer an oath, issue a subpoena to any witness, enforce the attendance of such witness, punish for contempt, hear evidence, and a majority of such Board of Control shall have the right to render a judgment.

Sec. 5. One or more members of the State Board of Control may enforce the attendance of any witness to be and appear at the office of any eleemosynary institution in the State of Texas, by the issuance of a subpoena for such witness, and thereafter, if necessary, under the rules governing the District Courts of this State, to issue an attachment for any such witness, who fails or refuses to answer such subpoena, and any sheriff, constable, or other duly qualified executive officer in the State of Texas is hereby authorized and directed to serve such subpoena, or attachment for the attendance of any such witness.

Sec. 6. Any witness residing outside the county from which such subpoena is issued by any member of the State Board of Control, shall be entitled to mileage and per diem, now provided by law, for the attendance of any witness in the trial of a criminal case in any District Court of this state, and any officer of the law serving an attachment, or subpoena, shall be entitled to receive and collect such fees as are now provided by law for similar services in any District Court of this state.

Sec. 7. No inquiry shall ever be instituted by the State Board of Control until a majority thereof, by a written order, duly passed and entered in the minutes of such Board, shall have been made. As amended Acts 1943, 48th Leg., p. 82, ch. 65, § 1.

Approved and effective March 17, 1943.

Section 2 of the amendatory Act of 1943 repealed all conflicting laws and parts of laws.

Section 3 read as follows: "The fact that the present law does not fully define the qualifications of the said Superintendent, and the further fact that good cause is not defined for removal of any Superintendent of any eleemosynary institution, and that such Superintendents are now declared to be state officers and not employees of the State Board of Control, and such Board is without authority to administer oath, to issue subpoena or attachment, enforce the attendance of any

witness, hear evidence or render judgment, and that there exists no provision in law for payment of mileage and per diem for witnesses or the fees of officers, and such officers are now without authority to serve such legal process, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted."

Eminent domain, power of State Board of Control, see article 693a.

Art. 3193h. Voluntary private patients; discharge; determination of incompetency

Section 1. The superintendent of any institution to which an insane or other mentally ill person may be committed, may receive and detain therein as a boarder and patient by and with the consent of the State Board of Control any person who is desirous of submitting himself to treatment, and who, being mentally competent to make such application, makes written application therefor; and any such person who desires to so submit himself for treatment may make such written application. No such person shall be detained more than three (3) days after having given written notice of his intention or desire to leave the institution. Whenever any such person is received into any institution, the superintendent thereof shall give immediate notice of such reception to the Board of Control.

Sec. 2. The superintendent of any such institution who receives a voluntary patient must, within ninety (90) days thereafter, discharge such patient, provided such patient has not become mentally incompetent during his stay in such institution.

Sec. 3. After the admission of a patient, mentally competent to make application therefor, and during the period of his stay, should it be determined by the superintendent of such hospital in which he is confined that he is incompetent, such fact shall be certified to the County Judge of the county in Texas where such patient has a legal residence and such County Judge shall cause such patient to be tried in absentia upon a complaint charging lunacy, verified and filed by the superintendent or other physician of the institution where such patient is confined, or any other duly licensed physician. Such County Judge shall appoint a licensed attorney of the State of Texas to represent such patient and no such patient shall be adjudged insane, except upon the evidence of two duly licensed physicians, one of whom shall be on active duty at the institution where such patient is confined. All such evidence may be by deposition, or given

in person, and the case shall be tried for the county by the county or district attorney. After trial, a transcript of the record thereof shall be transmitted by the clerk of the County Court to the hospital having such patient in custody. As amended Acts 1943, 48th Leg., p. 251, ch. 152, § 1.

Approved and effective April 20, 1943.

Act should take effect from and after its passage.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Art. 3193i. Temporary absence

The superintendent of any institution, after the examination as hereinafter provided, may permit any inmate thereof temporarily to leave such institution in charge of his guardian, relatives, friends, or by himself, for a period not exceeding twelve months, and may receive him when returned by any such guardian, relative, friend, or upon his own application, within such period, without any further order of commitment; but no patient, who has been charged with or convicted of some offense and been adjudged insane in accordance with the provisions of the code of criminal procedure, shall be permitted to temporarily leave such institution under any circumstances. The superintendent may require as a condition of such leave of absence, that the person in whose charge the patient is permitted to leave the institution shall make reports to him of the patient's condition. Any such superintendent, guardian, relative or friend may terminate such leave of absence at any time and authorize the arrest and return of the patient. Any peace officer of this state shall cause such patient to be arrested and returned upon the request of any such superintendent, guardian, relative or friend. Any patient, except such as are charged with or convicted of some offense, who has been adjudged insane in accordance with the provisions of the code of criminal procedure, who has returned to the institution at the expiration of twelve months may be granted an additional leave of not to exceed two years, by the superintendent, or upon his recommendation. As amended Acts 1943, 48th Leg., p. 394, ch. 266, § 1.

Approved and effective May 8, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "The fact that the various superintendents of the State Hospitals have interpreted the words "additional leave" to mean anything from thirty days to indefinite periods, and the further fact that the two year period takes care of certain types of insanity that recur within said time, thus enabling the patient to be

returned without the expense of trial, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Art. 3193o—2. Jury trial, commitment for more than 90 days without forbidden; inventory and appraisalment; copies to institution and Board of Control

Section 1. No person shall be committed to any state hospital or state institution for the treatment of the insane or other mentally ill persons for a period of more than ninety (90) days unless such person has been adjudged insane by a duly qualified jury in a lunacy proceeding, as provided for under the present Statutes of the State of Texas. The County Judge trying such lunacy case shall cause the clerk of said court to prepare forthwith a transcript of such proceedings in duplicate and send one (1) copy of the same to the state hospital, or institution, to which such person is committed, and one (1) copy to the State Board of Control.

Sec. 2. Hereafter the County Judge, upon conviction of any person in a lunacy trial, and the County Judge, or District Judge, in any other

legal proceeding, requiring a commitment, or order to transfer any person to any eleemosynary institution of this state, shall cause within ten (10) days after the entry of judgment, to be prepared and entered in the minutes of his court, by three (3) disinterested appraisers, under oath, an itemized inventory and appraisal of the estate of any such person, if any, and shall cause the same to be issued in duplicate, duly certified by the clerk of the County Court, and a copy thereof mailed to the eleemosynary institution where such patient was committed, and one (1) copy thereof to the State Board of Control at Austin, Texas. These reports shall be made by such appraisers, certified and mailed whether such property exists, or not, and the appraisers and officers of the court shall be paid fees chargeable to the estate, if any, of such person, as are now allowed by law in guardianship proceedings.

Sec. 3. In the event there has been a guardianship, or other legal proceeding had on the estate of any person, or persons legally committed to any eleemosynary institution, as provided in the preceding section of this law, then and in such event the Judge presiding at such trial will cause to be made at the time of trial certified copies of the inventory and appraisal of such estate by the clerk thereof, and a copy mailed to the eleemosynary institution to which such person was committed, and a copy to the State Board of Control at Austin, Texas, for which said clerk is authorized to charge against such estate the fees now allowed by law for certified written instruments. These certified copies are to be made and mailed as herein provided in lieu of the requirements of the preceding section of this Act.

Sec. 4. It is hereby made the duty of the clerk of the County Court of each county in Texas, to make two (2) certified copies of the inventory and appraisal, if any, of the estate of any person heretofore committed to any eleemosynary institution of this State, and to mail a copy thereof to the institution where such person is confined, and one (1) copy to the State Board of Control at Austin, Texas, for which such County Clerk may charge the fees now provided by law for making certified copies of instruments.

Sec. 5. It shall be the duty of the County Clerk to make two (2) certified copies of the inventory and appraisal of the estate of any person confined in any eleemosynary institution in the State of Texas that may hereafter come to his knowledge and to mail a copy thereof to the institution where such person is committed, and a copy thereof to the State Board of Control at Austin, Texas, for which said clerk is hereby authorized to collect the fees provided by law from the estate of any such person for making certified copies of instruments. Acts 1943, 48th Leg., p. 347, ch. 226.

Approved and effective May 6, 1943.

Section 6 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for commitment of persons of unsound mind by jury trial; providing for a copy of transcript and inventory and appraisal to state hospitals or any other eleemosynary institu-

tion and the State Board of Control; providing for mailing of appraisal of estate; requiring clerk of the County Court to make and mail to eleemosynary institutions and the Board of Control, copy of inventory and appraisal of all persons now committed, having estates, and those who hereafter acquire an estate; and declaring an emergency. Acts 1943, 48th Leg., p. 347, ch. 226.

CHAPTER THREE—OTHER INSTITUTIONS

TEXAS SCHOOL FOR THE BLIND

Art.
3207b. Commission; eligibility for appointment; compensation; secretary. [New].

CONFEDERATE HOME

3216a. Admission to Confederate Home; Confederate Veterans given priority; senile persons, admission of; transfer from state hospitals [New].

ADDITIONAL FEEBLE-MINDED INSTITUTION [NEW]

Art.
3238a. Institution for feeble-minded; transfer of persons to; admitting persons; custody.

DEAF AND DUMB ASYLUM

Art. 3203. 190 To teach printing

Teachers for Texas School for the Deaf, see article 2889b.

TEXAS SCHOOL FOR THE BLIND

Art. 3206. Board of trustees

Certificates to teach in Texas School for the Blind, see article 2889b.

Art. 3207a. State Commission for the Blind; quorum; vacancies; powers and duties

Section 1. There is hereby created and established the State Commission for the Blind, consisting of six (6) members to be appointed by the Governor and confirmed by the Senate of Texas. Two (2) to be graduates of the Texas School for the Blind and the other four (4) to be outstanding citizens of Texas, and whose terms of office shall be for six (6) years each, or until their successors shall have been appointed and qualified; provided, however, that the Governor shall name the Chairman thereof and that four (4) members thereof shall constitute a quorum for the transaction of business; providing the term of two (2) members to expire January 1, 1945, the term of two (2) members to expire January 1, 1947, and the term of two (2) members to expire January 1, 1949; provided, however, that the present members of the State Commission for the Blind who have previously been appointed by the Governor and confirmed by the Senate shall continue to hold office for the terms to which they have been appointed. The Governor shall designate which appointee he desires to fill each term and shall make such appointments immediately after the effective date of this Act. Vacancies shall be filled for any unexpired term by appointment by the Governor with the advice and consent of the Senate. On January 1, 1945, and biennially thereafter, vacancies existing on said Commission shall be filled and members selected shall be appointed for a full term of six (6) years, and each member of said Commission shall hold office until his successor has been appointed and has qualified by taking the oath of office. As amended Acts 1943, 48th Leg., p. 324, ch. 208, § 1.

Filed without the Governor's signature, May 3, 1943.

Effective May 3, 1943.

Section 2 of the amendatory Act of 1943

repealed 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. 3207b. Commission; eligibility for appointment; compensation; secretary

No paid employee of any agency carrying on work for the blind shall be eligible for appointment. Members of the Commission for the Blind shall serve without compensation but shall receive their necessary traveling and other expenses actually incurred in the performance of their duties. The Commission for the Blind shall annually elect a Secretary and such other employees as may be authorized by the general or special appropriation for said Commission. Acts 1943, 48th Leg., p. 324, ch. 208, § 3.

CONFEDERATE HOME

Art. 3216a. Admission to Confederate Home; Confederate Veterans given priority; senile persons, admission of; transfer from state hospitals

Section 1. That all eligible Confederate Veterans hereafter making application for admission to the Texas Confederate Home for Men at Austin, Texas, be given priority of admission, and the State Board of Control shall reserve sufficient space, at all times, for their admission and maintenance and they, together with all Confederate Veterans now maintained in said Home, and all senile persons to be transferred to said Home shall be segregated and be maintained in said Home.

Sec. 2. The Superintendent of any State Hospital is hereby authorized, upon receipt of a written order from the State Board of Control, to transfer from said Texas Hospital to the Texas Confederate Home for Men at Austin, Texas, any senile patient now being maintained in said hospital, or hereafter admitted thereto, and to relinquish custody of said senile patient, and custody of said patient is hereby placed in the Confederate Home for Men at Austin, Texas.

Sec. 3. The State Board of Control shall have the right to cause to be admitted to the Texas Confederate Home for Men at Austin, Texas, any senile aged person after such person has been duly adjudged insane, upon receipt of the certified transcript of such proceeding in the manner required by law.

Sec. 4. The Superintendent of the Texas Confederate Home for Men at Austin, Texas may, upon the recommendation of the chief physician employed at such institution, grant any senile patient confined therein a furlough or discharge in the same manner in which such senile patients are now released from State Hospitals.

Sec. 5. The Texas Confederate Home for Men at Austin, Texas, shall never be considered a custodial institution in so far as the laws, rules and regulations governing such institution affect Confederate Veterans, but shall be and is hereby made a custodial institution for senile patients.

Sec. 6. The preceding provisions of this Act are cumulative of existing law governing the Texas Confederate Home for Men, and it is the legislative intent that such home revert to the purposes for which it has been heretofore dedicated, when other facilities for the care of the senile aged patients, contemplated by this Act, are provided. Acts 1943, 48th Leg., p. 18, ch. 16.

Approved and effective Feb. 16, 1943.

Acts 1943, 48th Leg., p. 18, ch. 16, contained two sections numbered "Sec. 7." The first "Sec. 7" made appropriations for the current biennium. The second "Sec. 7" declared an emergency and provided

that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the immediate admission into the Texas Confederate Home

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

for Men at Austin, Texas, of all eligible Confederate Veterans, and providing for the maintenance and segregation of all Confederate Veterans who are now in said Home or may be hereafter admitted; providing that the State Board of Control may order transferred to and maintained therein any senile person now or hereafter admitted to a State Hospital or from any county in Texas; providing for the furlough or discharge of such patient, and further providing that such institution shall be a custodial institution only in so far as

senile patients are concerned; providing that this Act is cumulative; and providing that the Home shall revert to the purposes for which it has heretofore been dedicated whenever other facilities for the care of those contemplated by this Act are provided; making an emergency appropriation for the immediate repair, improvement, equipment, furnishing, and additional maintenance of said institution during the remainder of the biennium ending August 31, 1943; and declaring an emergency. Acts 1943, 48th Leg., p. 18, ch. 16.

ABILENE STATE HOSPITAL

Art. 3224. 213-218-219-220 Who admitted

All persons afflicted with epilepsy who have been bona fide residents of this State for one year next preceding the filing of his application with the county judge as herein provided, shall be admitted into the Abilene State Hospital, with the following exceptions:

Those who are infirm and bedridden or suffering from contagious or infectious disease.

The classification of all patients admitted to the hospital shall be as follows:

1. Indigent public patients.
2. Non-indigent public patients.
3. Private patients.

Indigent public patients are those who possess no property of any kind, and have no one legally liable for their support and able to reimburse the State.

Non-indigent public patients are those who possess some property out of which the State may be reimbursed, or who have some one legally liable for their support and able to reimburse the State. As amended Acts 1943, 48th Leg., p. 105, ch. 76, § 1.

Approved and effective March 22, 1943.
Section 2 of the amendatory Act of 1943
declared an emergency and provided that

the Act should take effect from and after its passage.

ADDITIONAL FEEBLE-MINDED INSTITUTION [NEW]

Art. 3238a. Institution for feeble-minded; transfer of persons to; admitting persons; custody

Sec. 4. No real property, improvements, and equipment will be acquired for the sum of money herein appropriated unless there can be comfortably and properly housed therein at least 350 feeble-minded patients, and such institution is hereby dedicated for the care, hospitalization, maintenance and education of feeble-minded persons having resided in the State of Texas for a period of not less than three (3) years preceding the date of their application for admission, and of not less than seven, (7) nor more than twenty-one (21) years of age.

Sec. 5. The State Board of Control is hereby authorized to transfer from any existing eleemosynary institution in Texas unto the institution contemplated by this Act all such feeble-minded person or persons coming within the ages hereinabove set out, and the Superintendents of any such institutions are hereby authorized to make transfer of such feeble-minded patients to such new institution.

Sec. 6. The Superintendent of the institution contemplated by this Act shall admit any feeble-minded person upon commitment or legal transfer in the same manner as such feeble-minded person or persons are now admitted to the Austin State School, and such Superintendent is further authorized to furlough or discharge such feeble-minded person or persons within the custody of such institution in the same manner as is now prescribed by law for the discharge or parole of any patient confined in the Austin State School.

Sec. 7. The new feeble-minded institution contemplated by this Act is made a custodial institution, and the Superintendent and other officers and employees thereof are directed to hold in custody, subject to the terms of the law, all such feeble-minded person or persons committed to them by the courts of this state. Acts 1943, 48th Leg., p. 718, ch. 396.

Filed without the Governor's signature May 31, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Sections 1-3 of Laws 1943, p. 718, c. 396 provided for the appraisal, examination of title and purchase of real property, improvements and equipment, for the purpose of hospitalizing, maintaining, caring for and educating feeble-minded persons, at a cost of not exceeding \$150,000.

Section 8 repealed certain provisions in an appropriation act of 1941. Section 9 required the purchase of real property and improvements and equipment by August 31, 1943; otherwise the funds provided for are to revert to the General Revenue Account. Section 10 thereof made appropriations for the purposes mentioned therein.

Section 11 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

STATE TUBERCULOSIS SANATORIUM

Art. 3244. Duties of county judge

If the County Judge is not satisfied as to the showing made in said application and certificate or either, he may subpoena witnesses and examine them under oath touching such matter, and if it be made to appear to the Judge that such person is entitled to admission into the colonies under the provisions of this law, he shall forward an application for admission, together with the application hereinbefore described, to the Superintendent of the State Tuberculosis Sanatorium. If said County Judge shall find that the person for whom application is made is in fact not indigent, then he shall make application for such person as a non-indigent patient. As amended Acts 1943, 48th Leg., p. 75, ch. 60, § 1.

Approved and effective March 10, 1943.
Section 5 of the amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

Art. 3245. Duties of Superintendent of the Tuberculosis Sanatorium

The Superintendent of the Tuberculosis Sanatorium shall receive such applications, file and alphabetically index the same in his office where they shall become a permanent record. If the County Judge shall determine not to make such an application for such person, then such person may make an application direct to the Superintendent of the Tuberculosis Sanatorium, and if in the judgment and opinion of the said Superintendent such patient is entitled to admission into such colony, then he shall order him to be admitted by and with the consent of the State Board of Control. The order of admission must be by the Superintendent, written, signed and filed with the State Board of Control. As amended Acts 1943, 48th Leg., p. 75, ch. 60, § 2.

Art. 3247. Repealed. Acts 1943, 48th Leg., p. 75, ch. 60, § 4. Effective March 10, 1943

Art. 3248. Clothing, etc., expenses

The County Judge shall see that each patient admitted to the colony is supplied with three full suits of clothes and one neat top coat, all being such as may be prescribed by the Superintendent of the State Tuberculosis Sanatorium, and the expenses of the clothing and transportation of public indigent patients shall be paid by the county from which the patient is sent. If any patient is admitted directly upon the certificate of the Superintendent of the State Tuberculosis Sanatorium as an indigent patient, then the said Superintendent shall supply such patient with such clothing and his certificate thereof shall be full evidence that the same was so supplied and of the value thereof, and the county from which said patient comes shall pay the cost thereof upon presentation of said certificate. Non-indigent public patients shall pay for their clothing and transportation. As amended Acts 1943, 48th Leg., p. 75, ch. 60, § 3.

The title of Acts 1943, 48th Leg. p. 75, ch. 60, purports to amend Art. 3248 but the act itself amends Art. 3248 instead.

TITLE 52—EMINENT DOMAIN

Art.

3264d. Texas State College for Women;
eminent domain [New].

Cities or towns acquiring property outside corporate limits, application to, see article 969b.

Art. 3264. 6506, 6528 Procedure

State Board of Control, exercise of power of eminent domain, see article 693a.

Art. 3264d. Texas State College for Women; eminent domain

Section 1. The Board of Regents of the Texas State College for Women of Texas is hereby vested with the power of eminent domain to acquire for the use of said College such lands as may be necessary and proper for carrying out its purposes, in the manner prescribed in Title 52, Revised Civil Statutes of Texas of 1925, as amended.

Sec. 2. The taking of such property is hereby declared to be for the use of the state. Said Board of Regents of the Texas State College for Women shall not be required to deposit a bond or the amount equal to the award of damages by the Commissioners as provided in Section 2, of Article 3268. Revised Civil Statutes of Texas of 1925. Acts 1943, 48th Leg., p. 208, ch. 127.

Approved and effective April 12, 1943.

Section 3 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act conferring upon the Board of Regents of the Texas State College for

Women of Texas the power of eminent domain to acquire land for the use of the College; exempting said Regents from depositing bond as provided in Section 2, of Article 3268, Revised Civil Statutes of Texas of 1925; and declaring an emergency. Acts 1943, 48th Leg., p. 208, ch. 127.

Arts. 3265-3267

State Board of Control, exercise of power of eminent domain, see article 693a.

Art. 3268. 6530, 4471, 4205 Damages paid first

Regents of Texas State College for Women not required to deposit bond, see article 3264d.

State Board of Control, exercise of power of eminent domain, see article 693a.

Arts. 3269, 3270

State Board of Control, exercise of power of eminent domain, see article 693a.

TITLE 54—ESTATES OF DECEDENTS**CHAPTER TWENTY-ONE—SALES**

Art.

3554a. Easements and right-of-ways, sale
by guardians, executors and ad-
ministrators [New].

**Art. 3554a. Easements and right-of-ways, sale by guardians, executors
and administrators**

Guardians, executors and administrators are authorized to sell and convey easements and right-of-ways on, under and over the land owned by the ward of the guardians or by the estate being administered by such executors or administrators. The procedure to be followed for the sale and conveyance of any such easements and right-of-ways shall be the same procedure now or hereafter provided by law for the sale of real estate by guardians, executors or administrators. Acts 1943, 48th Leg., p. 356, ch. 234, § 1.

Approved and effective May 6, 1943.

Section 2 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the sale of easements and right-of-ways by guardians, executors and administrators and prescribing the procedure therefor; and declaring an emergency. Acts 1943, 48th Leg., p. 356, ch. 234.

TITLE 61—FEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

Art.

3902h. Deputy Assessor—collector of taxes in counties 140,000 to 220,000 [New].

Art. 3902h. Deputy assessor—collector of taxes in counties 140,000 to 220,000

In all counties in this state having a population of not less than one hundred forty thousand (140,000) nor more than two hundred twenty thousand (220,000), according to the last preceding Federal Census or any future Federal Census, the Commissioners Court may employ one deputy Assessor-Collector of Taxes in each of such counties who shall receive a salary not to exceed Thirty-six Hundred (\$3,600.00) Dollars per annum, payable in equal monthly installments; provided however, that said deputy Assessor-Collector of Taxes shall possess special technical training, skill and experience as to valuations of oil and mineral bearing lands, properties and interests therein, industrial and refining plants, synthetic rubber plants, wharfs, docks and other transportation facilities, shipyards and other properties where special technical skill and training are required. The Commissioners Court in such counties may contract with such deputy who shall work under the Assessor-Collector of Taxes, but such contract shall be terminable at the will of either party. To be valid any such contract of employment shall be in writing, shall be signed by the parties thereto, and shall be approved as to substance and form by the County Auditor and by the County Attorney. It is further provided that the Commissioners Court in any such counties, by order duly entered, shall be empowered to immediately terminate any such contract of employment as is provided for by this Section. Acts 1943, 48th Leg., p. 382, ch. 257, § 3.

Filed without the Governor's signature, May 7, 1943.

Effective May 7, 1943.

Sections 5 and 6 of the Act of 1943 read as follows:

"§ 5. If any part of this Act shall be held to be unconstitutional, then all the Act shall be unconstitutional. The Legislature hereby declares that it would not have passed the remaining parts of this

Act if it had known that such part or parts would be declared unconstitutional.

"§ 6. All laws or parts of laws in conflict with any provision of this Act are hereby repealed, unless this Act be invalid."

Section 7 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 67—FISH, OYSTER, SHELL, ETC.

CHAPTER ONE—COMMISSIONER AND DEPUTIES

Art. 4018. 3879 Duties and powers

Pollution of public bodies of surface water, enforcement of act prohibiting, see P.C. art. 698b.

TITLE 69—GUARDIAN AND WARD**CHAPTER FIVE—INVENTORY, APPRAISEMENT AND LIST OF CLAIMS****Art. 4153. 4113, 2612, 2531 Inventory**

Conviction of person in lunacy trial, inventory and appraisement of estate, see article 3193c—2.

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; or in shares or share accounts of any Building and Loan Association organized under the laws of this State, provided the payment of such shares or share accounts are insured by the Federal Savings & Loan Insurance Corporation; or in the shares or share accounts of any Federal Savings & Loan Association domiciled in this State, where the payment of such shares and share accounts are insured by the Federal Savings & Loan Insurance Corporation; in tax-supported bonds of the State of Texas; in tax-supported bonds of any county, district, political 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 (\$1,000,000.00) Dollars 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 case surrender value available at the age of twenty-one (21) years, 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 1943, 48th Leg., p. 65, ch. 56, § 1.

Approved and effective March 11, 1943.
Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Guardians and other fiduciaries authorized to invest in shares of savings and loan associations, see, also, article 881a-24.

CHAPTER EIGHT—SALES

Art. 4195. 4155 Guardian may sell real estate

Easements and rights of way, sale by guardians, see article 3554a.

Art. 4201. 4162, 2660, 2579 Order of sale

An order for the sale of real estate shall state:

1. The property to be sold, giving such description of it as will identify it.
2. Whether it is to be sold at public auction or at private sale, and if at public auction, the time and place of such sale.
3. The necessity and purpose of such sale.
4. That no sale of real estate made by the guardian shall be confirmed, nor shall title of the ward to such real estate pass to the purchaser unless and until it shall first be found and determined by the Court, by an order duly made and entered, that the guardian has filed a good and sufficient bond in an amount equal to twice the amount

for which said real estate is sold, and that the sureties on such bond are solvent, provided, however, that where the sale of such real estate is made to the owner or holder of a secured claim against the estate, and the same is of the real estate securing such claim and is in full payment, liquidation, and satisfaction thereof, only the amount of cash, if any, actually received by such guardian in excess of the amount necessary to pay, liquidate and satisfy such claim in full, shall be considered in passing upon the sufficiency of the bond as hereinabove required.

"5. It shall require the sale to be made and the report thereof to be returned to the Court in accordance with the law. As amended Acts 1943, 48th Leg., p. 684, ch. 378, § 1.

Approved and effective May 10, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

**Art. 4216. 4177, 2675, 2593 Action of the court—Bond of guardian—
Requisites and amount—Provisions mandatory**

At any time after the expiration of five (5) days after the filing of a report of sale, the Court shall inquire into the manner in which such sale was made and hear evidence in support of or against such report, and if satisfied that such sale was fairly made and in conformity with law and that the guardian has on file a good and sufficient bond in an amount equal to twice the value for which said real estate is being sold, and if and when the guardian's said bond has been examined by the Court and found to be in the amount above required with good and sufficient sureties thereon, as evidenced by an order duly made and entered by the Court to that effect, the Court shall cause to be entered a decree confirming such sale and order the report of sale to be recorded by the Clerk and the proper conveyance of the property sold to be made by the guardian to the purchaser, upon compliance by such purchaser with the terms of sale, provided, however, that where the sale of such real estate is made to the owner or holder of a secured claim against the estate and the same is of the real estate securing such claim and is in full payment, liquidation, and satisfaction thereof, only the amount of cash, if any, actually received by such guardian in excess of the amount necessary to pay, liquidate and satisfy such claim in full, shall be considered, together with the other property of the estate, in passing upon the sufficiency of such bond. The provisions of this Act shall be mandatory and unless the Court shall first determine that the guardian's bond is adequate and solvent, as above set forth, as evidenced by an order made and entered by the Court to that effect, any sale of real estate hereafter made under the provisions of this Title shall be void; provided, that the provisions hereof shall not apply to cases pending at the time this law becomes effective. As amended Acts 1943, 48th Leg., p. 684, ch. 378, § 1.

Approved and effective May 10, 1943.

CHAPTER TWELVE—LUNATICS AND DRUNKARDS

Art. 4270. 4241, 2738, 2656 Jury impaneled

Jury trial, necessity for commitment to institution, see articles 3193c—1, 3193c—2.

Art. 4280. 4251, 2748, 2666 Expenses of confinement

Inventory and appraisal of estate, see article 3193c—2.

CHAPTER FIFTEEN—FINAL SETTLEMENT

Article 4296. 4267, 2764, 2682 When settled

When the ward dies; or, when the estate of the ward is exhausted; or, if a minor, arrives at the age of twenty-one (21) years; or, if a female, marries; or, if a person of unsound mind or habitual drunkard, is restored and discharged from guardianship, the guardianship shall be immediately settled and closed and the guardian discharged, as provided in this Chapter. As amended Acts 1943, 48th Leg., p. 414, ch. 281, § 1.

Approved and effective May 8, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after declared an emergency and provided that its passage.

TITLE 70—HEADS OF DEPARTMENTS

CHAPTER TWO—COMPTROLLER OF PUBLIC ACCOUNTS

Art. 4358. 4349 Pay warrants

Waiver of pay by state or district officers on active military duty, see article 6829a.

Art. 4366. 4361 To examine and cancel warrants

The State Auditor shall examine the disbursements of the Treasurer at the end of each quarter, and shall, together with the Treasurer, cancel the warrants which have been paid in such manner as to prevent their future circulation, and shall examine if the receipts acknowledged by the Treasurer during the quarter correspond with the deposits, and if the balance of money reported to be in his possession is actually in his hands. As amended Acts 1943, 48th Leg., p. 429, ch. 293, § 17.

Approved May 10, 1943.
Effective 90 days after May 11, 1943, date of adjournment.

CHAPTER THREE—STATE TREASURER

Art.
4385a. General Revenue Fund, transfers from special funds into [New].

Art. 4385a. General Revenue Fund, transfers from special funds into

On September 1st of each year, there shall be transferred from each of the following special funds into the General Revenue Fund that portion of the unexpended balance in each such fund which exceeds an amount equivalent to the receipts deposited to the credit of such special fund during the preceding fiscal year:

- Gas Utilities Fund
- Securities Act Fund
- Liquefied Petroleum Gas Fund
- Real Estate License Fund
- Recording Agents Fund
- Vending Machine Tax Enforcement Fund
- Vital Statistics Fund
- Special Game Fund
- Sand, Shell and Gravel Fund
- Fish Propagation and Protection Fund
- Board of Cosmetology Fund
- Motor Vehicle Insurance Fund
- Fire Insurance Division Fund
- Insurance Examination Fund
- Insurance Agents' License Fund
- Mutual Assessment Insurance Fund
- Insurance Fees Fund

Such funds, when transferred, shall become and be a part of the General Revenue Fund for all purposes. Acts 1943, 48th Leg., p. 469, ch. 313, § 2.

Approved May 13, 1943.
Effective Sept. 1, 1943.

Section 4 of the Act of 1943 declared an

emergency and provided that the Act should take effect on Sept. 1, 1943.

Partial invalidity, see article 6687b note.

CHAPTER FOUR—A—STATE AUDITOR

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| Art.
4413a—8. Legislative audit committee [New]. | Art.
4413a—16. Improper practices; illegal transactions; reports; hearings; removal or replacement [New]. |
| 4413a—9. State Auditor; appointment by committee; term [New]. | 4413a—17. Office of State Auditor; compensation of Auditor and assistants; traveling expenses; duties of First Assistant [New]. |
| 4413a—10. Qualifications of State Auditor [New]. | 4413a—18. Personnel; suggested appointments forbidden [New]. |
| 4413a—11. Written appointment; oath; bond; vacancies [New]. | 4413a—19. Removal or discharge [New]. |
| 4413a—12. Approval of appointment by Senate [New]. | 4413a—20. State auditor not to serve in other capacities [New]. |
| 4413a—13. Powers and duties of State Auditor in general [New]. | 4413a—21. Texas Prison System, auditing [New]. |
| 4413a—14. Examination of state departments; reports; recommendations [New]. | 4413a—22. Definitions [New]. |
| 4413a—15. Files to be kept by State Auditor [New]. | 4413a—23. Partial invalidity [New]. |

Arts. 4413a—1 to 4413a—7. Repealed. Acts 1943, 48th Leg., p. 429, ch. 293, § 1. Eff. 90 days after May 11, 1943, date of adjournment

State Auditor, 1943 act relating to, see articles 4413a—8 to 4413a—23.

Art. 4413a—8. Legislative Audit Committee

There is hereby created a Legislative Audit Committee, which shall be composed of the Speaker of the House of Representatives, the Chairman of the Appropriations Committee of the House of Representatives, the Chairman of the Revenue and Taxation Committee of the House of Representatives, the Lieutenant-Governor, the Chairman of the Finance Committee of the Senate and the Chairman of the Committee on State Affairs of the Senate. In the absence of any such Chairman, the Vice-Chairman of such Committee shall act. The members of said Committee shall receive no compensation for the services performed under the provisions of this Act,¹ but each shall receive his actual and necessary expenses incurred in the discharge of his duties as such member. The Committee shall employ such clerical assistants as it may need within the limits of the appropriations made for such purpose.

The Committee, within ten (10) days from the passage of this Act, shall meet and organize by electing one (1) member of said Committee, Chairman; and another member of said Committee, Secretary. In voting on any question which this Act requires the Legislative Audit Committee to decide, if the full Committee is present and there is a tie vote, and the Committee cannot secure, within a reasonable time, a majority vote either for or against the proposition under consideration, then the Committee shall agree on a seventh member, selected from the membership of either the House or the Senate, and the member so selected shall meet with the Committee and shall vote on the proposition under consideration. When he has voted and the proposition has been decided, his duties as a member of such Committee shall end. Acts 1943, 48th Leg., p. 429, ch. 293, § 2.

¹ Articles 4366, 4413a—8 to 4413a—23; P.C. article 422b.

Approved May 10, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 1 of the Act of 1943 read as follows: "House Bill No. 170, Chapter 91,

of the Acts of the First Called Session of the 41st Legislature of the State of Texas, 1929 [articles 4413a—1 to 4413a—7; P.C. article 422a], be and the same is hereby repealed, save and except that the State

Auditor and Efficiency Expert and his employees shall continue to discharge the functions of the office under such House Bill No. 170 until a State Auditor has been appointed and has qualified under the terms of this Act. Upon the qualification of a State Auditor under the terms of this Act, any funds remaining in the appropriation for the current biennium for the office of State Auditor and Efficiency Expert and for the Auditor provided in Section 18, Chapter 212, Acts, Regular Session, 40th Legislature [art. 6166q], may be used by and are appropriated for the office of State Auditor provided for in this Act, subject to the provisions hereof. In addition, there is hereby appropriated for the remainder of the current biennium the sum of Fifteen Hundred (\$1500.00) Dollars or so much thereof as, together with appropriations transferred, is necessary to pay the State Auditor the salary hereinafter provided."

Section 14, being a Penal provision, is published as P.C. art. 422b.

Section 17 amends article 4366.

Section 20 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing a more efficient fiscal system for the State of Texas including (but not excluding other things) a uniform system of accounting; creating a Legislative Audit Committee; and the appointment of a State Auditor by such Legis-

lative Audit Committee; repealing House Bill No. 170, Chapter 91, Acts of the First Called Session of the 41st Legislature; providing that the present State Auditor and Efficiency Expert shall continue to discharge duties of his office until a State Auditor is selected and qualifies under this Act; amending Article 4366 Revised Civil Statutes, 1925; providing for the transfer of appropriations and making additional appropriations; providing that expenditures shall be under the direction of the Legislative Audit Committee; providing that the appointment of the State Auditor shall be by and with the consent of two-thirds (2/3) of the members of the Senate; prescribing the qualifications, duties, and authority of said State Auditor and providing for his compensation; providing for the necessary assistants for said Auditor and fixing their qualifications and compensation; providing for the payment of salaries, travel, and other expense of the office of State Auditor; providing for the removal of State Auditor and his assistants, or any of them, under certain conditions; providing a method of filling any vacancy in the office of State Auditor and vacancies in the personnel of said office; prescribing penalties; including Texas Prison System among institutions to be audited; defining terms; providing a savings clause; and declaring an emergency. Acts 1943, 48th Leg., p. 429, ch. 293.

Art. 4413a—9. State Auditor; appointment by Committee; term

Such Committee, or the majority of the membership thereof, shall appoint an investigator of all custodians of public funds, disbursing agents, and personnel of departments, the title of such officer to be State Auditor. The appointment shall be made during the period from February 1st to February 15th of each odd numbered year, and the person so appointed State Auditor shall hold the office until his successor is appointed and qualifies; provided, however, that within ten (10) days of the effective date of this Act,¹ or as soon thereafter as practicable, such Committee shall appoint an Auditor for the period expiring February 15, 1945. Such Auditor shall be a Certified Public Accountant of Texas. Acts 1943, 48th Leg., p. 429, ch. 293, § 3.

¹ Articles 4366, 4413a—8 to 4413a—23; P.C. article 422b.

Art. 4413a—10. Qualifications of State Auditor

The person appointed State Auditor shall have had at least five (5) years experience as a Certified Public Accountant immediately preceding his appointment, and he shall be a man of unquestioned integrity and moral character and who has had sufficient experience in business and finance to properly discharge the functions of the office. He shall have been a citizen and resident of Texas for at least five (5) years immediately preceding his appointment. He shall qualify by taking the Constitutional oath of office and executing a bond to be approved by the appointing power, payable to the Governor of the State of Texas and his successors in office, in the sum of Twenty-five Thousand (\$25,000.00) Dollars, conditioned upon the faithful discharge of the duties of his office, with a solvent surety company as surety. The premium due the surety company

for the execution of such bond shall be paid by the state. Acts 1943, 48th Leg., p. 429, ch. 293, § 4.

Art. 4413a—11. Written appointment; oath; bond; vacancies

The Legislative Audit Committee, or a majority of the membership thereof, shall execute a written appointment of the person so appointed as such State Auditor and cause the same to be filed in the office of the Secretary of State. The person so appointed to such office, within ten (10) days after his appointment, shall file in the office of the Secretary of State his oath and approved bond; and if he shall fail to do so, the Committee, or a majority of the membership thereof, shall appoint some other qualified person to fill such office. All vacancies in the office of State Auditor shall be filled by the Committee or a majority of the membership thereof. Acts 1943, 48th Leg., p. 429, ch. 293, § 5.

Art. 4413a—12. Approval of appointment by Senate

The appointment of the State Auditor shall be by the Legislative Audit Committee immediately certified to the Senate, if the same be in session, and if it not be then in session it shall be certified within ten (10) days after said Senate shall be officially convened for any purpose; and if, after consideration by the Senate, the person so appointed and certified shall not receive the approval of two-thirds (2/3) of the members of the Senate, he shall not be considered as approved, and the Legislative Committee shall at once proceed to the selection of another for such position. Acts 1943, 48th Leg., p. 429, ch. 293, § 6.

Art. 4413a—13. Powers and duties of State Auditor in general

The State Auditor is hereby granted the authority and it shall be his duty:

1. To perform an audit of all accounts, books and other financial records of the State Government of any officer of the state, department, board, bureau, institution, commission or agency thereof, and to prepare a written report or reports of such audit or audits to the Legislative Audit Committee and such other person or persons hereafter designated in this bill.

2. To personally, or by his duly authorized assistants, examine and audit all fiscal books, records and accounts of all custodians of public funds, and of all disbursing officers of this state, making independent verifications of all assets, liabilities, revenues and expenditures of the state, its departments, boards, bureaus, institutions, commissions or agencies thereof now in existence or hereafter created.

3. To require such changes in the accounting system or systems and record or records of any office, department, board, bureau, institution, commission or state agency, that in his opinion will augment or provide a uniform, adequate, and efficient system of records and accounting.

4. To work with the executive officers of any and all state offices, departments, boards, bureaus, institutions, commissions or agencies thereof hereafter created, in outlining and installing a uniform, adequate and efficient system of records and accounting.

5. To require the aid and assistance of all executives and officials, auditors, accountants and other employees of each and every department, board, bureau, institution, commission or agency of the state at all times in the inspection, examination and audit of any and all books, accounts and records of the several departments.

The State Auditor shall have access at all times to all of the books, accounts, reports, confidential or otherwise, vouchers, or other records of

information in any state office, department, board, bureau, or institution of this state.

In making any changes, the State Auditor shall take into consideration the present system of such books, records, accounts and reports in order that the transition may be gradual. The past and present records shall be co-ordinated into the new system. It is the object and purpose of this Act,¹ among other things, to install a unified and co-ordinated system of accounting and records in every department, bureau, board and institution of the State Government.

The State Auditor shall also perform such other duties as may be required of the State Auditor or State Auditor and Efficiency Expert by any other existing law or laws of this State. Acts 1943, 48th Leg., p. 429, ch. 293, § 7.

¹ Articles 4366, 4413a—8 to 4413a—23; P.C. article 422b.

Art. 4413a—14. Examination of state departments; reports; recommendations

In addition to the other duties provided for the State Auditor, he shall thoroughly examine all departments of the State Government with special regard to their activities and the duplication of efforts between departments and the quality of service being rendered by subordinate employees in each of the several departments.

Upon completing the examination of any department, he shall furnish the head thereof with a report of, among other things, (a) the efficiency of the subordinate employees; (b) the status and condition of all public funds in charge of such department; (c) the amount of duplication between work done by the departments so examined and other departments of the State Government; (d) the expense of operating the department; (e) breaches of trust and duty, if any, by an officer, department, institution, board, bureau, or other custodian or disbursement officer of public funds; (f) any suggested changes looking toward economy and reduction of number of clerical and other employees, and the elimination of duplication and inefficiency. Copies of each report shall be filed with the Governor, the Lieutenant-Governor, the Speaker of the House of Representatives, the Secretary of State, and each member of the Legislature.

The State Auditor shall file an annual report with the Governor; copies of such report shall be filed with the Speaker of the House, the Lieutenant-Governor, and in the office of the Secretary of State. Such annual report shall contain, among other things, copies of, or the substance of reports made to the various departments, bureaus, institutions, and boards, as well as a summary of changes made in the system of accounts and records thereof.

Reports shall also contain specific recommendations to the Legislature for the amendment of existing laws or the passage of new laws designed to improve the functioning of various departments, boards, bureaus, institutions or agencies of State Government to the end that more efficient service may be rendered and the cost of government reduced.

All recommendations submitted by the State Auditor shall be confined to those matters properly coming within his jurisdiction, which is to see that the laws passed by the Legislature dealing with the expenditure of public moneys are in all respects carefully observed, and that the attention of the Legislature is directed to all cases of violation of the law and to those instances where there is need for change of existing laws or the passage of new laws to secure the efficient spending of public funds. The State Auditor shall not include in his recommendations to the Legislature

any recommendations as to the sources from which taxes shall be raised to meet the governmental expense.

All reports by the State Auditor shall call attention to any funds, which, in his opinion, have not been expended in accordance with law or appropriations by the Legislature; and shall make recommendations to the Legislature as to the manner or form of appropriations, which will avoid any such improper expenditure of money in the future.

Each of the audits herein provided for shall be made and concluded as directed by the Legislative Audit Committee, and in accordance with the terms of this Act;¹ but shall be concluded and reports thereof made not later than thirty (30) days before the convening of each Regular Session of the Legislature. The Committee shall direct the Auditor to make any special audit or investigation that in its judgment is proper or necessary to carry out the purpose of this Act, or to assist the Legislature in the proper discharge of its duties.

The Committee shall direct the printing or mimeographing of such number of any reports as it thinks necessary and proper.

All reports filed by the Secretary of State shall be open to public inspection. Acts 1943, 48th Leg., p. 429, ch. 293, § 8.

¹ Articles 4366, 4413a—8 to 4413a—23; P.C. article 422b.

Art. 4413a—15. Files to be kept by State Auditor

The State Auditor shall keep, or cause to be kept, a complete, accurate and adequate set of fiscal transactions of the State Auditor's office. He shall also keep a complete file of copies of all audit reports, examinations, investigations, and any and all other reports or releases issued by him or his office, and a complete file of audit work papers and other evidences pertaining to work of the office of State Auditor. Acts 1943, 48th Leg., p. 429, ch. 293, § 9.

Art. 4413a—16. Improper practices; illegal transactions; reports; hearings; removal or replacement

If the State Auditor finds, in the course of his audit, evidence of improper practices of financial administration or of any general incompetency of personnel, inadequacy of fiscal records, he shall report same immediately to the Governor, the Legislative Audit Committee, and the Department head or heads affected. If the State Auditor shall find evidence of illegal transactions, he shall forthwith report such transactions to the Governor, the Legislative Audit Committee and the Attorney General.

Immediately upon receipt of a report from the State Auditor of incompetency of personnel and inadequacy of fiscal records, the Legislative Audit Committee shall review the State Auditor's report of same and hold hearings with the Department head or heads concerning such incompetency and inadequacy of fiscal records. The Legislative Audit Committee, after holding such hearings, shall make a report to the Department head or heads requesting the removal or replacement of the incompetent personnel or the installation of the necessary fiscal records. The Legislative Audit Committee shall report to the Legislature any refusal of the Department officials to remedy such incompetency or the installation of proper fiscal records. Acts 1943, 48th Leg., p. 429, ch. 293, § 10.

Art. 4413a—17. Office of State Auditor; compensation of Auditor and assistants; traveling expenses; duties of First Assistant

The State Auditor shall devote his entire time to the discharge of the duties herein imposed upon him; shall maintain his office in the Capitol;

and the Board of Control is directed to furnish suitable quarters, supplies and stationery for him and his assistants and employees. The State Auditor shall receive for his services compensation at the rate of Seven Thousand Five Hundred (\$7,500.00) Dollars per annum until September 1, 1945, and thereafter such sum as may be provided in the biennial appropriation bill, together with the necessary traveling expense, payable monthly in the manner as other state officers are paid. All vouchers issued in the payment of salary and expenses to the State Auditor shall be approved by the Chairman of the Legislative Audit Committee before they are paid; and all vouchers issued for the payment of salaries of assistant auditors and for stenographic and clerical help, as well as all vouchers issued in the payment of other expenses incurred in the operation of the office of the State Auditor, shall be approved by the State Auditor before they are paid. Traveling expenses for all employees in the State Auditor's office, when engaged on official business, shall be paid to the extent authorized in the appropriation bill for the State Auditor's office. All sums appropriated to the State Auditor for that department shall be expended under the direction and subject to the control of the Legislative Audit Committee. Salaries shall be paid monthly. The salary of no assistant auditor shall exceed the sum of Four Thousand Two Hundred (\$4,200.00) Dollars per annum, except the First Assistant, whose salary shall not exceed Six Thousand (\$6,000.00) Dollars per annum. The First Assistant State Auditor shall perform such duties and assignments as the State Auditor may prescribe, and shall act as State Auditor in the absence of the State Auditor. All such assistant auditors and stenographic and clerical assistants shall be named and appointed by the State Auditor. The salaries paid shall in no event exceed the amounts paid in other departments for similar services. Acts 1943, 48th Leg., p. 429, ch. 293, § 11.

Art. 4413a—18. Personnel; suggested appointments forbidden

The State Auditor shall be free to select the most efficient personnel available for each and every position in his office, to the end that he may render to the members of the Legislature that service which they have a right to expect. It is the intention and desire of the Legislature to free the State Auditor and his staff from partisan politics; and it is hereby declared to be against public policy, and unlawful, for any member of the Legislature or any official or employee of the State Government or any board, bureau, department or institution thereof to recommend or suggest the appointment of any person to a position on the staff of the State Auditor. The State Auditor is hereby authorized to conduct such professional examinations as he may deem expedient in determining the qualifications of the persons whom he contemplates placing on his staff. Acts 1943, 48th Leg., p. 429, ch. 293, § 12.

Art. 4413a—19. Removal or discharge

The State Auditor may be removed or discharged at any time by the Legislative Audit Committee, or a majority of the members thereof, for any reason satisfactory to said Committee or a majority thereof, and without a hearing, and such office or position filled by appointment, the same as though a vacancy existed in such office. The State Auditor may remove or discharge any assistant auditor or any stenographic or clerical assistants at any time and for any reason satisfactory to himself and without a hearing. Acts 1943, 48th Leg., p. 429, ch. 293, § 13.

Art. 4413a—20. State Auditor not to serve in other capacities

The State Auditor shall not serve in any ex-officio capacity, on any administrative board or commission, or have any financial interest in the transactions of any department, board, bureau, institution, commission or agency of the state. Acts 1943, 48th Leg., p. 429, ch. 293, § 15.

Art. 4413a—21. Texas Prison System, auditing

The provisions of Section 18 of Chapter 212 of House Bill No. 59, Acts of the Regular Session of the 40th Legislature,¹ shall in no way relieve the State Auditor from the duties and responsibilities of auditing the Texas Prison System the same as every other department, board, bureau or institution of this state. Acts 1943, 48th Leg., p. 429, ch. 293, § 16.

¹ Article 6166q.

Art. 4413a—22. Definitions

Wherever the word "department", "board", "bureau", "institution", "commission", or other word or words of similar import appear in any prior Section of this Act,¹ such shall mean each and every department, board, bureau, institution, commission or agency of the State Government. Acts 1943, 48th Leg., p. 429, ch. 293, § 18.

¹ Articles 4366, 4413a—8 to 4413a—23; P.C. article 422b.

Art. 4413a—23. Partial invalidity

If any part or parts of this Act¹ shall be held 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 invalid part or parts thereof would be so declared unconstitutional. Acts 1943, 48th Leg., p. 429, ch. 293, § 19.

¹ Articles 4366, 4413a—8 to 4413a—23; P.C. article 422b.

TITLE 71—HEALTH—PUBLIC

Chap.	Art.
Six A. Chiropractors [New].	4512—1

CHAPTER ONE—HEALTH BOARDS AND LAWS

Art.
 4436a—3. Tax levy to create health units
 in counties under 22,000 au-
 thorized [New].

Art. 4436a—33. Tax levy to create health units in counties under 22,000 authorized

Section 1. The Commissioners Court of each County of this State having a population of less than twenty-two thousand (22,000), according to the last preceding Federal Census, is hereby authorized to levy a tax, not to exceed five (5) cents on each One Hundred Dollars valuation, upon personal or real property for the purpose of creating a County Health Unit, and for the purpose of buying necessary vaccines, and to pay for necessary medical services required for the immunization of school children and indigent people from communicable diseases, and to pay as much as one half, or any portion thereof, as they may deem reasonably necessary, for the medical treatment and immunization of indigent people who are not paupers. This Act is not to be construed as mandatory upon said Commissioners Courts, but shall only become effective in any county having a population of less than twenty-two thousand (22,000) after being approved by a majority of the property taxpaying voters of that county at an election called for that purpose by the Commissioners Court after receiving a petition signed by not less than five (5) per cent of the property taxpaying voters of said county requesting such an election.

Sec. 2. The Commissioners Court of each County which creates a County Health Unit, in accordance with the provisions of Section 1 hereof, shall create and set up a fund, to be known as "The County Health Unit Fund," in which is to be placed the proceeds of the tax provided for in Section 1, and from which shall be drawn the funds necessary for the creation of the County Health Unit, and for the purposes set out in Section 1. Acts 1943, 48th Leg., p. 687, ch. 380.

Approved and effective May 17, 1943.

Section 3 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners Courts of certain Counties, at their option, to levy a tax not to exceed five (5) cents on the One Hundred Dollars valuation upon personal and real property for the purpose of creating a County Health Unit and paying for medical supplies and services for the immunization of

school children and indigent people from communicable diseases; authorizing the Commissioners Court to pay as much as one half or any portion thereof, as they may deem reasonably necessary, for the treatment of indigent people, other than paupers; providing the Act shall not become effective until approved by the property taxpaying voters at an election; providing for the creation of a County Health Unit Fund; providing for an election to approve this action; and declaring an emergency. Acts 1943, 48th Leg., p. 687, ch. 380.

Art. 4444. Polluting public body of water

Pollution of public bodies of surface water prohibited, see, also, P.C. art. 698b.

CHAPTER THREE—FOOD AND DRUGS

Art.

4476--1. Flour and bread, manufacture, baking and sale; enrichment; penalties for violating state or federal laws or regulations [New].

Art.

4476--2. Oleomargarine; regulation of sale, distribution and possession; enrichment; violations; label [New].

Art. 4476—1. Flour and bread, manufacture, baking and sale; enrichment; penalties for violating state or federal laws or regulations

Section 1. (a). The term "flour" includes and shall be limited to flour of every kind and description made wholly or partly from wheat which conforms to the definition and standard of identity of flour, white flour, wheat flour and plain flour as promulgated by the Federal Security Agency (Federal Register, Vol. 6, pp. 2574-82, May 27, 1941), but excludes whole wheat flour made only from the whole wheat berry with no part thereof removed, and also excludes special packaged flours not used for bread baking, such as cake, pancake, cracker, and pastry flours;

(b). The term "bread" includes and shall be limited to bread of every kind and description made wholly or partly from wheat flour which conforms to the definition and standard of identity of bread as promulgated by the Federal Security Agency (Federal Register, Vol. 6, pp. 2771-72, June 7, 1941), but excludes bread containing no wheat flour or bread containing no wheat flour or breads made from whole wheat flour;

(c). The term "enrichment" as applied to flour or bread means the addition thereto of vitamins and other ingredients of the nature required by this Act; and the terms "enriched flour" (as defined in Federal Register, Vol. 6, pp. 2579-81, May 27, 1941), and "enriched bread" (as defined in Federal Register, Vol. 6, p. 2772, June 7, 1941), means flour or bread, as the case may be, which has been enriched to conform to the requirements of this Act.

(d) The term "person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, or any unincorporated organization.

(e) The term "appropriate federal agency" means the Federal Security Agency, or any agency or department or administrative federal officer charged with the enforcement and administration of the Federal Food, Drug and Cosmetic Act.¹

Enrichment of flour; ingredients; application

Sec. 2. On and after the effective date of this Act it shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale, for human consumption in this state, any flour (as above defined) unless the following vitamins and other ingredients are contained in each pound of such flour:

(a) Not less than 1.66 milligrams of Vitamin B1 (thiamin); not less than 6 milligrams of nicotinic acid (also recognized under the name of niacin) or nicotinic acid amide (also known under the name of niacin amide); and not less than 6 milligrams of iron (Fe). These ingredients and amounts are in accordance with the definition of enriched flour as promulgated by the Federal Security Agency, (Federal Register, Vol. 6, pp. 2579-82, May 27, 1941; and Vol. 6, pp. 6175-76, December 3, 1941), postponing the effective date for the addition of riboflavin as a required ingredient to enriched flour.

(b) The enrichment of flour shall be accomplished by a milling process, addition of vitamins from natural or synthetic sources, addition of

minerals, or by a combination of these methods, or by any method which is permitted by the Federal Security Agency with respect to flour introduced into interstate commerce.

(c) The State Health Officer is empowered with the authority and directed to change, or add to, the specifications for ingredients and the amounts thereof required to conform to the State or Federal definition of enriched flour when promulgated or as may be from time to time amended.

(d) Iron shall be added only in forms which are assimilable and harmless and which do not impair the enriched flour.

Provided, however, that the terms of this Act shall not apply to flour sold to bakers who elect to enrich their products by other means than by the use of enriched flour as provided in Section 4.

(e) The terms of this Act shall not apply to flour or bread which is made from the entire wheat berry with no parts of the wheat removed from the mixture. In cases of flour or bread containing mixtures of the whole wheat berry and white flour or mixture of various portions of the wheat berry such products shall have a vitamin and mineral potency at least equal to enriched flour or enriched bread as described herein.

(f) The terms of this Act shall not apply to flour ground for the wheat producer whereby the miller is paid in wheat or feed for the grinding service rendered, except insofar as such a mill may manufacture toll wheat into flour and sell or offer for sale such flour, whereupon this Act shall be applicable; nor shall the provisions of this Act apply to farmers in exchanging their wheat for flour, or having the same ground into flour and disposing of the same for their own use or the use of farm labor on their farms.

Interstate shipments

Sec. 3. On and after the effective date of this Act it shall be unlawful for any person to manufacture, bake, sell, or offer for sale, or to receive in interstate shipment for sale for human consumption in this state, any bread or flour (as above defined) unless the following vitamins and other ingredients are contained in each pound of such bread or flour:

(a) Not less than 1.0 milligram of Vitamin B1 (thiamin); not less than 4.0 milligrams of nicotinic acid (niacin) or nicotinic acid amide (niacin amide); and not less than 4.0 milligrams of iron (Fe);

(b) The State Health Officer is empowered with the authority and directed to change, or add to, the specifications for ingredients and the amounts thereof required to conform to the Federal definition of enriched bread when promulgated or as from time to time amended.

Enrichment of bread; ingredients

Sec. 4. (a) The enrichment of bread may be accomplished through the use of enriched flour, enriched yeast, other enriched ingredients, synthetic vitamins, harmless iron salts, or by any combination of harmless methods which will produce enriched bread which meets the requirements of Section 3.

(b) Iron shall be added only in forms that are assimilable and harmless and which do not impair the enriched bread.

Labelling

Sec. 5. It shall be unlawful to sell or offer for sale in this state any enriched flour or enriched bread which fails to conform to the labeling of the State Food and Drug and of the Federal Food, Drug and Cosmetic Act,¹ and the regulations promulgated thereunder by the appropriate federal or state agency, with respect to flour or bread introduced into interstate commerce.

State Health Officer, powers under act

Sec. 6. (a) The State Health Officer is authorized as the administrative agency and is hereby directed:

(1) To make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this Act, including, but without being limited to, such orders, rules, and regulations as he is hereinafter specifically authorized and directed to make.

(2) From time to time to adopt such regulations changing or adding to the required ingredients for flour or bread specified in Sections 2 and 3 as shall be necessary to conform to the definitions and standards of identity of enriched flour and enriched bread from time to time promulgated by the appropriate federal agency pursuant to the Federal Food, Drug and Cosmetic Act.¹

(b) In the event of the finding by the State Health Officer that there is an existing shortage or imminent shortage of any ingredient required by Sections 2 and 3 of this Act, with the result that the sale and distribution of flour or bread may be substantially impeded by the enforcement of this Act, the State Health Officer shall issue an order, to be effective immediately upon issuance, permitting the omission of such ingredients from flour and bread. Whenever the State Health Officer finds that such shortage no longer exists, he shall issue an order, to be effective not less than ten days after publication thereof, revoking such order. Any such findings as to the existence or imminence of any such shortage, or the cessation thereof, may be made by the State Health Officer without any hearing, on the basis of an order of, or factual information supplied by the appropriate federal agency (as hereinbefore defined) or the War Production Board or any similar federal agency. In the absence of any such order or factual information the State Health Officer, upon receiving the sworn statement of any persons subject to this Act that such a shortage exists or is imminent or has ceased, shall, within ten days thereafter, hold a public hearing with respect thereto, at which time any interested person may present evidence in support of such sworn statement, and any such finding by the State Health Officer may be based upon the evidence so presented. The State Health Officer shall publish notice of any such hearing at least ten days prior thereto.

(c) All orders, rules, and regulations adopted by the State Health Officer pursuant to this Act shall be published in the manner hereinafter prescribed, and within the limits specified by this Act, shall become effective upon such date as the State Health Officer shall fix.

(d) Whenever under this Act publication of any notice, order, rule or regulation is required, such publication shall be made at least three times in ten days in newspapers of general circulation in three different sections of the state.

(e) The State Health Officer is authorized to collect samples for analysis and to conduct examinations and investigations for the purposes of this Act, through any officers or employees under his supervision; and all such officers and employees shall have authority to enter to inspect any factory, mill, warehouse, shop, or establishment where flour or bread is manufactured, processed, packed, sold, or held, or any vehicle and any flour or bread therein, and all pertinent equipment, materials, containers and labeling.

Violations of Act or rules and regulations

Sec. 7. Any person who violates any of the provisions of this Act, or the orders, rules or regulations promulgated by the State Health Officer under authority thereof, shall, upon conviction thereof, be subject to

fine for each and every offense, in a sum not exceeding One Hundred (\$100.00) Dollars or to imprisonment for not more than thirty days, or both such fine and imprisonment. Acts 1943, 48th Leg., p. 305, ch. 199.

1 21 U.S.C.A. §§ 301-392.

Filed without the Governor's signature, April 30, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 8 of the Act of 1943 read as follows: "All processors, distributors, millers, wholesalers and retailers shall be allowed sixty full days after the effective date of this Act to dispose of any and all flour on hand not conforming to the provisions of this Act."

Section 9 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Federal Food, Drug and Cosmetic Act, see 21 U.S.C.A. § 301 et seq.

Title of Act:

An Act to protect the public health by regulating the manufacture, baking, mix, compound, sale or offer for sale for human

consumption of flour and bread as defined herein, and to require the enrichment of flour and bread by the addition of certain vitamins and minerals and to prescribe the methods of enrichment; authorizing the State Health Officer to change or add to the specifications for ingredients and amounts thereof; providing the method of enrichment; and authorizing the State Health Officer to prescribe rules and regulations as prescribed herein to carry out the provisions of this Act; authorizing the State Health Officer to determine the availability of the necessary ingredients; defining the terms used herein; fixing active enforcement date of this Act; and providing a penalty for violation of any section of this Act, and declaring an emergency. Acts 1943, 48th Leg., p. 305, ch. 199.

Art. 4476—2. Oleomargarine; regulation of sale, distribution and possession; enrichment; violations; label

Section 1. That on and after the passage of this Act it shall be unlawful for any manufacturer, processor or dealer in oleomargarine in the State of Texas to sell or offer for sale any such product within this state which does not contain at least 9,000 United States Pharmacopeia Units of Vitamin A per pound. Oleomargarine is defined for the purpose of this Act in the Federal Register, Vol. 6, p. 2762-63, June 7, 1941.

Sec. 2. The State Health Officer is authorized as the administrative agency and is hereby authorized and directed to change, or add to, the specifications for ingredients and the amounts thereof required to conform to any changes in the ruling of the Federal Security Agency concerning the addition of vitamins to oleomargarine, established in the Federal Register, Vol. 6, pp. 2761-63, June 7, 1941, or as may be from time to time amended.

Sec. 3. The State Health Officer is empowered and directed to enforce this Act through any officers or employees under his supervision, and to enter upon the premises of any manufacturer, processor or refiner, or upon the premises of any person engaged as a retail or wholesale dealer in oleomargarine, for the purpose of collecting samples for analyses or making such investigations as may be necessary to properly enforce the same. Any person found by a court of competent jurisdiction to be guilty of violating the terms of this Act shall be punishable by a fine of not more than One Hundred (\$100.00) Dollars, or by imprisonment for not more than thirty days for each and every offense.

Sec. 4. Whenever any person, firm or corporation subject to the provisions of this Act shall submit to the State Health Officer an affidavit claiming a shortage or imminence of shortage of any vitamin added to or to be added to oleomargarine as required by this Act, the State Health Officer shall request information from the War Production Board or other Federal agency responsible for information concerning said availability. If factual information from said source can be obtained within ten days this information shall be considered as final and the State Health Officer is hereby instructed to act thereon. However, if said information is not available within the prescribed time the State Health Officer shall call

for a public hearing to be held within ten days after notice. If the testimony presented shows that the sale and distribution of oleomargarine may be substantially impeded by the enforcement of the provisions of this Act, he shall authorize the sale and distribution of oleomargarine until adequate supplies of such vitamins become available in the judgment of the State Health Officer, based on information from said Federal agencies or testimony at a public hearing.

Sec. 5. All oleomargarine sold in the State of Texas must be labeled in accordance with the State Food and Drug Laws and with the regulations of the Federal Security Agency governing the labeling of oleomargarine with added Vitamin A sold in interstate trade. Oleomargarine labeled in accordance with Federal Laws, rules and regulations shall be deemed sufficient compliance with the laws, rules and regulations of the State of Texas.

Sec. 6. All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

Sec. 7. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this 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. Acts 1943, 48th Leg., p. 348, ch. 227.

Filed without the Governor's signature, May 6, 1943.

Effective 90 days after May 11 1943, date of adjournment.

Section 8 of the Act of 1943 read as follows: "All processors, jobbers, distributors, wholesalers and retailers shall be allowed sixty full days after the effective date of this Act to dispose of any and all oleomargarine on hand not conforming to the provision of this Act."

Section 9 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Federal Food, Drug and Cosmetic Act, see 21 U.S.C.A. § 301 et seq.

Title of Act:

An Act to protect the public health by regulating the sale, distribution or possession of, and to require the enrichment of oleomargarine by the addition of vitamins; and specifying ingredients and authorizing the State Health Officer to change or add to the specifications for such ingredients, and to determine the availability thereof; fixing active enforcement date of this Act, and to fix penalties for the violation of same; repealing all laws or parts of laws inconsistent with this Act, and declaring an emergency. Acts 1943, 48th Leg., p. 348, ch. 227.

CHAPTER 3A—BEDDING

Art. 4476a. Bedding—Manufacture, repair or renovating—definitions

Sales to United States for war purposes, inapplicable to

Section 11a. Provisions of this Act shall not apply to bedding prepared and sold under contract to the United States Government for war purposes; providing that this Act shall be effective until cessation of hostilities of the present war. It is the express legislative purpose and intent of this Act that this exception apply only to bedding actually sold to the United States Government. Added Acts 1943, 48th Leg., p. 273, ch. 172, § 1.

Approved and effective April 27, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

CHAPTER FOUR—SANITARY CODE

Art. 4477. Sanitary code

Rule 47a. Contents of birth certificate.

(26) Provided further upon entry of final order of adoption the Judge or Clerk of Court shall notify the Registrar of vital statistics in State Department of Health of action taken, giving the names and addresses of the natural parents if known or of the child's next kin, the date of birth and 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 revocation 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 adoption 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 the Court order of adoption.

Upon the adoption of said child, the State Registrar shall notify the Local Registrar of that adoption, and shall forward to the Local Registrar a copy of the birth certificate showing the names of the parents by adoption, provided that no statement of the adoption shall appear on that record. The Local Registrar shall return to the State Registrar, or shall cancel the certificate of the natural birth of said child, and shall substitute in its place a certificate forwarded him by the State Registrar.

And provided further that the State Registrar, upon the written request signed by the parent, or parents, of the adopted child, may retain the certificate of the natural birth in the file and may attach a certificate showing the names of the parent, or parents, by adoption to the original certificate as an amendment. The State Registrar shall furnish the Local Registrar with a copy of the said birth certificate to be attached to the original birth certificate.

Upon the marriage of a mother of a child, or children, her husband may file with the Local Registrar the certificate of marriage, to which may be attached a birth certificate for each child showing the father's name and other data referring to him as the father of the child or children.

And provided that if the husband is deceased, divorced, or permanently or temporarily outside the limits of the United States, or when the husband's whereabouts are not known, the mother shall have all the rights granted the husband in filing said certificate or certificates.

When the Local Registrar is satisfied that the marriage has occurred and that the statements made on the birth certificate are true and correct, he shall place his file date and signature on the certificate and forward it to the State Bureau of Vital Statistics. The State Registrar shall attach the certificate as a correction to the certificate of the natural birth of the child; and provided further, that neither the State Registrar nor a Local Registrar shall, except where ordered by a court of competent jurisdiction, make a certificate of, or furnish any information to any person as to the birth certificate of an illegitimate child, but shall issue a certified copy of the birth certificate filed after the marriage of the mother of the child. As amended Acts 1943, 48th Leg., p. 289, ch. 184, § 1.

Approved and effective April 27, 1943.

Act should take effect from and after its passage.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Rule 51a. Blanks and registration forms; index of births and deaths; records; transcripts; fees; trial of issue regarding birth or death absent affidavit. That the State Department of Health shall prepare, print, and supply to all registrars all blanks and forms used in registering, recording and preserving the returns, or in otherwise carrying out the purposes of this Act, and each city and incorporated town shall print and supply its local registrar, and each county shall print and supply the County Clerk with permanent record books, in form approved by the State Registrar, for the recording of all births and deaths occurring within their respective jurisdictions. The State Registrar shall prepare and issue such detailed instructions as may be required to procure the uniform observance of its provisions and the maintenance of a perfect system of registration; and no other forms shall be used than those approved by the State Department of Health. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory. And all physicians, midwives, informants, or undertakers, and all other persons having knowledge of the facts, are hereby required to supply, upon a form provided by the State Department of Health, or upon the original certificate, such information as they may possess regarding any birth or death, upon demand of the State Registrar in person, by mail, or through the local registrar; provided, that no certificate of birth or death, after its acceptance for registration by the local registrar, and no other record made in pursuance of this Act shall be altered or changed in any regard otherwise than by the amendments properly dated, signed and witnessed. The State Registrar shall further arrange, bind, and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive index of all births and deaths registered; said index to be arranged alphabetically, in the case of deaths, by the name of decedents, and in the case of births, by the names of fathers and mothers. He shall inform all registrars what diseases are to be considered infectious, contagious, or communicable, and dangerous to the public health, as decided by the State Department of Health, in order that when deaths occur from such diseases proper precautions may be taken to prevent their spread. If any cemetery company or association or any church or historical society or association, or any other company, society or association, or any individual, is in possession of any record of births or deaths which may be of value in establishing the genealogy of any resident of this State, such company, society, association, or individual, may file such record, or a duly authenticated transcript thereof, with the

State Registrar, and it shall be the duty of the State Registrar to preserve such record or transcript and to make a record and index thereof in such form as to facilitate the finding of any information contained therein. Such record and index shall be open to inspection by the public, subject to such reasonable conditions as the State Department of Health may prescribe. If any person desires a transcript of any record in accordance herewith, the State Registrar shall furnish same upon application, together with a certificate that it is a true copy of such record, as filed in his office, and for his services in so furnishing such transcript and certificate he shall be entitled to a fee of ten cents (10¢) per folio, fifty cents (50¢) per hour or fraction of an hour necessarily consumed in making such transcript, and to a fee of twenty-five cents (25¢) for the certificate, which fees shall be paid by the applicant; provided, that before the issuance of any such transcript, the Registrar shall be satisfied that the applicant is properly entitled thereto, and that it is to be used only for legitimate purposes.

And providing further that any citizen of the State of Texas wishing to file the record of any birth or death, not previously registered may submit to the Probate Court in the county where the birth or death occurred, a record of that birth or death, written on the adopted forms of birth and death certificates; and provided further, that any citizen of the State of Texas wishing to file the record of any birth or death that occurred outside the State of Texas, not previously registered, may submit to the Probate Court in the County where he resides a record of that birth or death written on the adopted forms of birth and death certificates. The certificate shall be substantiated by the affidavit of the medical attendant present at the time of the birth, or in case of death, the affidavit of the physician last in attendance upon the deceased, or the undertaker who buried the body. When the affidavit of the medical attendant or undertaker cannot be secured, the certificate shall be supported by the affidavit of some person who was acquainted with the facts surrounding the birth or death, at the time the birth or death occurred, with a second affidavit of some person who is acquainted with the facts surrounding the birth or death, and who is not related to the individual by blood or marriage. Provided, however, that when application is made, as provided in this paragraph, a fee of One Dollar (\$1.00) shall be collected by the Probate Court, fifty cents (50¢) of which shall be retained by the Court, and fifty cents (50¢) of which shall be retained by the Clerk of the County Court for recording said birth or death certificate. If the affidavit hereinbefore mentioned of some person acquainted with the facts at the time the birth or death occurred cannot be secured, then the County Judge shall order a trial of the issue as to the applicant's birth and hear the evidence of such witnesses and consider such documents relating thereto as may be available including testimony regarding the family history, and after such hearing if the Court concludes that it has been established beyond a reasonable doubt that the applicant was born within the United States, and at the time and place stated in the certificate, he shall enter judgment finding such facts relating to the applicant which judgment shall be accepted in lieu of the affidavit mentioned above, and sufficient, and shall order the State Registrar to accept the certificate of the applicant's birth. The fee for this hearing shall be the same as those set out in Articles 3925 and Article 3930 Revised Civil Statutes of Texas, 1925, as heretofore amended. Within seven (7) days after the certificate has been accepted and ordered filed by the Probate Court, the clerk of that Court shall forward the certificate to the State Bureau of Vital Statistics with an order from the court to the State Registrar that the

certificate be accepted. The State Registrar is authorized to accept the certificate when verified in the above manner, and shall issue certified copies of such records as provided for in Section 21 of this Act.¹ Certified copies of said birth or death certificate shall be issued by either the County Clerk or the State Registrar and fee for said certified copy shall be fifty cents (50¢). Such certified copies shall be prima facie evidence in all Courts and places of the facts stated thereon. The State Bureau of Vital Statistics shall furnish the forms upon which such records are filed, and no other form shall be used for that purpose; provided further, that at the end of each month the County Clerks of the State of Texas shall forward to the State Bureau of Vital Statistics an itemized list of all certified copies made and delivered during said month of any birth or death or delayed birth or death certificate.

No prescribed form for recording birth certificates shall indicate that any birth recorded or certified was illegitimate. As amended Acts 1943, 48th Leg., p. 112, ch. 83, § 1.

¹ Rule 54a of this article.

Approved and effective March 25, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Section 2 of the amendatory Act of 1941, p. 850, ch. 525, declared an emergency but

such emergency clause was inoperative under Const. art. 3, § 39.

Section 2 of the amendatory Act of 1941, p. 933, ch. 564, declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER FIVE—COUNTY HOSPITAL

Art.

4494i. Joint establishment and operation of hospitals by counties and cities or towns [New].

Art. 4492. Contracts with cities

Joint operation of hospitals, see, also, article 4494i.

Art. 4494i. Joint establishment and operation of hospitals by counties and cities or towns

Section 1. Any county of the State and any incorporated city or town within such county, acting through the Commissioners Court of such county and the governing body of such city or town, may jointly establish, erect, equip, maintain and operate a hospital or hospitals for the care and treatment of the sick, infirm, and/or injured; and for the purposes of establishing, erecting, equipping, maintaining and operating such a hospital or hospitals, the Commissioners Court of any county and the governing body of any city or town within such county may, by resolution or other appropriate action, confer upon, delegate to and grant to a Board of Managers, as hereinafter provided, full and complete authority to establish, erect, equip, maintain and operate such hospital or hospitals. Such cities or towns and counties that have heretofore issued and sold bonds for the specific purpose of jointly establishing, erecting, equipping, maintaining and operating such joint county-city hospital may finance such hospital or hospitals out of general revenues and are each, respectively, hereby authorized to levy and collect a tax, not to exceed Ten (10) Cents per one hundred dollar valuation on the property subject to taxes therein, for such purposes.

Sec. 2. The Board of Managers shall be composed of seven (7) members; three (3) of this number shall be appointed by the Commissioners Court of such county, three (3) shall be appointed by the governing body

of such city or town, and one shall be appointed by the Commissioners Court of such county and the governing body of such city or town acting jointly as one appointive body. The Commissioners Court of such county shall appoint to the Board one member for a term of office expiring at the end of two (2) years from date of appointment, one member for a term of office expiring four (4) years from date of appointment, and one member for a term of office expiring six (6) years from date of appointment. In like manner, the governing body of such city or town shall appoint to the Board one member for a term of office expiring two (2) years from date of appointment, one member for a term of office expiring four (4) years from date of appointment, and one member for a term of office expiring six (6) years from date of appointment; and similarly, the Commissioners Court and the governing body of such city or town, acting together as an appointive body, shall appoint one member for a term of office expiring six (6) years from date of appointment. Thereafter, at the expiration of each term of office of the members so appointed to such Board, the Commissioners Court and the governing body of such city or town acting jointly as an appointive body, shall each respectively make, and continue to make, similar appointments to such Board for a term of office of six (6) years each. Any vacancy occurring during the term of office of any member, whether by resignation or death, shall be filled for the unexpired portion of such term by the particular appointive body previously making the appointment of the resigning or deceased member.

Sec. 3. Such Board of Managers shall select a chairman or presiding officer from among their number who shall preside over all meetings of the said Board, and shall sign all contracts, agreements and other instruments made by said Board on behalf of such county and such city or town. A majority of the members of the Board shall constitute a quorum with full authority and power to act.

Sec. 4. Such Board of Managers shall have full and complete authority to enter into any contract connected with or incident to the establishment, erection, equipping, maintaining or operating such hospital or hospitals, and in this connection shall have authority to disburse and pay out all funds set aside by such county and such city or town for purposes connected with such hospital or hospitals, and such action by such city or town as though such action had been taken by the Commissioners Court of such county or governing body of such city or town.

Sec. 5. Once each year such Board of Managers shall prepare and present to such Commissioners Court and the governing body of such city or town a complete financial statement of the financial status of such hospital or hospitals, and shall submit therewith a proposed budget of the anticipated financial needs of such hospital or hospitals for the ensuing year. On the basis of such financial statement and budget the Commissioners Court of such county and the governing body of such city or town shall appropriate or set aside for the use of such Board of Managers in the operation of such hospital or hospitals the amount of money which seems proper and necessary for such purpose.

Sec. 6. The Commissioners Court of such county and the governing body of such city or town may contribute to the funds necessary for such hospital or hospitals in whatever proportion may be determined by them by agreement.

Sec. 7. In connection with the erection and equipping of such hospital or hospitals said Board of Managers shall have the authority to determine the manner of expending any funds that may have been provided by such county and such city or town for such purpose, whether by the issuance of bonds or other obligations, or by appropriations from

other funds of such county and city or town, it being the intention by this Act to grant to such Boards the complete authority to manage and control all matters affecting such hospitals, reserving to such county and city or town the right only to appoint members to such Board of Managers and to approve the annual budget hereinabove provided for.

Sec. 8. This Act is cumulative of all other Acts relating to city and county hospitals. Acts 1943, 48th Leg., p. 691, ch. 383.

Approved May 17, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 9 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Cities of 10,000 or more, joint hospitals, see article 4492.

Title of Act:

An Act providing for counties and cities to jointly operate and maintain hospitals;

providing for a Board of Managers for the operation of such hospitals, and further providing for the delegation by cities and counties to such Board control of such hospitals; providing manner of appointment of said Board and designating their powers and duties; providing for contribution to the funds of said hospitals; providing for a direct tax levy; making the Act cumulative; and declaring an emergency. Acts 1943, 48th Leg., p. 691, ch. 383.

CHAPTER SIX A—CHIROPRACTORS [NEW]

Art.

4512a—1. Texas Board of Chiropractic Examiners.

4512a—2. Funds, disposition of.

4512a—3. "Chiropractic" defined.

4512a—4. Treatments.

4512a—5. Registration of chiropractors; license; advertisements and display signs; violations.

4512a—6. Advice against vaccination or treatment by antitoxin or serum.

4512a—7. Right to practice and use term "chiropractor".

4512a—8. Expiration of licenses.

4512a—9. Schools and colleges of chiropractic; course of instruction.

Art.

4512a—10. Examinations.

4512a—11. Request for examination; grade required; granting license to person not entitled thereto.

4512a—12. Persons having licenses from other states.

4512a—13. Annual license, failure to obtain.

4512a—14. Revocation, cancellation or suspension of license.

4512a—15. Notice to accused licensee.

4512a—16. Prosecution where District Attorney fails to prosecute.

4512a—17. Punishment for violations.

4512a—18. Partial invalidity.

Art. 4512a—1. Texas Board of Chiropractic Examiners

There is hereby created a Board of Chiropractic Examiners to be known as the "Texas Board of Chiropractic Examiners."

(a) The term "Board" as used in this Act¹ shall mean "The Texas Board of Chiropractic Examiners" composed of nine (9) appointed graduate Chiropractors who will meet the requirements prescribed in Section 7 of this Act.²

(b) The Governor of the State of Texas shall, within thirty (30) days after this Act takes effect, appoint such Board, consisting of nine (9) graduate Chiropractors not more than three (3) being graduates of the same school or college of Chiropractic, who have resided and practiced in the State of Texas for at least five (5) years.

(c) The term of office of the members of the Board shall be six (6) years, except that the original appointees shall serve as follows: three (3) members to serve for two (2) years, three (3) members for four (4) years, and three (3) members for six (6) years, and the Governor shall designate the term each shall serve. All members shall serve until their successors shall have been appointed and qualified. Vacancies shall be filled by the Governor within thirty (30) days after any vacancy exists; all appointments shall be confirmed by the Senate of Texas.

(d) The Board of Examiners shall, within ten (10) days after its appointment, meet and organize by selecting from its membership a President, Vice President, and Executive Secretary; each of whom shall hold office until their successors are elected and qualified; but in no event to extend longer than his tenure of office on the Board. The Executive Secretary shall be placed under a Ten Thousand Dollar (\$10,000) bond, made payable to the Treasurer of the State of Texas. The Executive Secretary shall be custodian of all the funds paid to the Board. The first Board, by virtue of their appointment, shall issue to themselves a license to practice chiropractic in this State. A majority of said Board shall constitute a quorum for the transaction of business.

(e) All subsequent appointments to the Board shall be active practitioners of Chiropractic in the State of Texas who shall have resided and practiced Chiropractic in this State for a period of five (5) years under a diploma from a school recognized by this Board. No member of said Board shall be a stockholder, or a member of the faculty or Board of Trustees of any Chiropractic School.

(f) Each member of said Board shall qualify by taking the official oath in the county of his residence before any officer now authorized by law to give said oath.

(g) The Board may prescribe rules, regulations and bylaws for the purpose of carrying out the provisions of this Act, and to govern its own proceedings.

(h) The Board shall hold regular meetings to examine applicants and for the transaction of business for three (3) days during the first week in March and October of each year. Special and regular meetings may be called by the Board anywhere in the State.

(i) The Board shall provide an office where meetings of the Board may be held and for the purpose of transacting its business.

(j) The Board is by this Act given authority to appoint and employ whatever assistants are needed including an Executive Secretary and a State Supervisor of Chiropractic. The Executive Secretary may be selected from the membership of the Board, and he may also act in the capacity of State Supervisor of Chiropractic. It shall be the duty of the State Supervisor of Chiropractic to visit the office of any or all Chiropractors in the State to inspect their office to see if they are practicing Chiropractic as prescribed by this Act, and to cooperate with the proper authorities to see that no one is practicing Chiropractic in Texas in violation thereof. Said Board and each member thereof shall have authority and power to administer oaths, take affidavits, summon witnesses and take testimony for all purposes required in the discharge of its duties under this Act. In the event any witness fails to appear when summoned by the Board, the Board shall appeal to the Judge of any court of the State, said Judge shall compel the attendance of such witness or witnesses, and the Board shall adopt a seal to be affixed to its documents. Acts 1943, 48th Leg., p. 627, ch. 359, § 1.

¹ Articles 4512a—1 to 4512a—18.

² Article 4512a—9.

Filed without the Governor's signature, May 24, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 17 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act regulating the practice of Chiropractic in Texas; creating an examining board of graduate Chiropractors; provid-

ing for the appointment and maintenance thereof; providing for an executive secretary and assistants; fixing bond for the executive secretary; outlining qualifications of the Chiropractors making up the Board; prescribing duties of the Board; fixing fees and regulating funds; providing for transfer of certain moneys left as a balance in any fiscal year to the General Fund; defining the science of Chiropractic; providing for licensing; providing for li-

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

cense renewal and fee; providing for filing of certified copies of licenses with District Clerks; fixing standards for Chiropractic Colleges; fixing requirements for examinees and providing exemptions; providing for examination fees; providing for reciprocity and fees; providing for revocation

of license after notice and hearing; providing for appeal; providing for action by the Attorney General on application of the Board; fixing penalties; repealing all laws in conflict; providing a saving clause; and declaring an emergency. Acts 1943, 48th Leg., p. 627, ch. 359.

Art. 4512a—2. Funds, disposition of

Within ten (10) days after the close of every meeting of the Board the Executive Secretary shall turn over to the State Treasurer all sums of money belonging to the Board. The Treasurer shall keep the same in a separate fund to be used in paying the necessary expenses of the Board, which may include expenses incurred for the advancement and education of all licensees under this Act¹ and enforcement by the Board of the provisions of this Act, the salary of the Executive Secretary, and a per diem of Ten Dollars (\$10) to each member of the Board for such time as is actually spent in the discharge of official duties, plus traveling expenses of Ten Cents (10¢) per mile. Such salaries and expenses shall be paid out of said fund by the State Treasurer on the warrants of the Comptroller of Public Accounts, on vouchers approved by the Board. A greater cash balance than the sum of Twenty Thousand Dollars (\$20,000) shall never be carried from one fiscal year to the next, and at the end of each fiscal year the State Treasurer shall transfer from the funds and accounts of said Board to the General Fund of the State all money in excess of the sum of Twenty Thousand Dollars (\$20,000). Acts 1943, 48th Leg., p. 627, ch. 359, § 2.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—3. "Chiropractic" defined

Chiropractic is defined to be the Science of analyzing and adjusting the articulations of the human spinal column, and its connecting tissues, without the use of drugs or surgery. Chiropractic shall in no sense be construed or defined as treatment or attempted treatment of patients by use of surgery or medicine. It is hereby declared the purpose of the Legislature to make as definite the distinction between Chiropractic and other sciences as the distinction between Dentistry and Medicine. Acts 1943, 48th Leg., p. 627, ch. 359, § 3.

Art. 4512a—4. Treatments

No chiropractor shall treat any patient for any ailment or illness except by chiropractic as that term is herein defined. Provided that it shall be a violation of this Act¹ for any person licensed hereunder to treat any person for infectious or contagious diseases or to engage in the practice of medicine. Acts 1943, 48th Leg., p. 627, ch. 359, § 3a.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—5. Registration of chiropractors; license; advertisements and display signs; violations

Within sixty (60) days after the organization of the Board, all Chiropractors practicing within the State shall register with the Secretary of the Board and qualify for license under rules of the Board, by examination as set forth in this Act;¹ provided, for good cause shown by applicant, the Board may extend the time for such registration and qualification, such time, however, not to exceed six (6) months from the effective date of this Act; and no person in this State shall be allowed to practice the Science of Chiropractic or hold himself out as a Chiro-

practor without first having obtained from the Board a license to practice Chiropractic and to use the term "Chiropractor."

Every person who may be granted a license to practice chiropractic under the provisions of this Act who may advertise or use any display sign wherein the name of such person is advertised or displayed, the name of such person shall be followed by the word and term "Chiropractor." Any person who fails to comply with the above and foregoing provisions of this paragraph shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200). Acts 1943, 48th Leg., p. 627, ch. 359, § 4.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—6. Advice against vaccination or treatment by antitoxin or serum

It shall be unlawful for any person practicing chiropractic to persuade or attempt to persuade directly or indirectly or advise or attempt to advise the parents of any child or any person in charge or custody of any child against treating said child by vaccination or treatment by antitoxin or serum for diseases caused by germs and any person violating this section shall be guilty of a felony and upon conviction shall be punished by confinement in the penitentiary for a term of years not less than two (2) nor more than ten (10). Acts 1943, 48th Leg., p. 627, ch. 359, § 4a.

Art. 4512a—7. Right to practice and use term "Chiropractor"

Each duly licensed Chiropractor who shall have complied with the provisions of this Act¹ shall be entitled to use the term "Chiropractor" and shall have the right, within the State of Texas, to practice Chiropractic as defined in this Act. Acts 1943, 48th Leg., p. 627, ch. 359, § 5.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—8. Expiration of licenses

All licenses under this Act¹ shall expire on the thirty-first day of August of each year and shall be renewed then or thereafter by the Board, upon payment of renewal fee to be set annually by the Board of not more than Fifteen Dollars (\$15), and the presentation of evidence satisfactory to said Board, that the said licensee, in the year preceding the application for renewal, attended some Post Graduate course satisfactory to the Board and/or at least one four-day or more educational refresher course or institute as conducted by the Board under the rules of the Board and/or the Texas State Chiropractic Association Incorporated; provided that the Board may grant renewal license, but not consecutive renewal, upon a showing satisfactory to the Board that attendance upon said educational programs was unavoidably prevented; provided all licenses shall be numbered, signed by the officers of the Board and attested by the Seal. A certified copy shall be filed with the District Clerk of the county in which the licensee resides and office is maintained. Renewal fees shall be applied by the Board in the same manner and to the same purpose as provided for in Section 2 of this Act.² However the Board may, in its discretion, waive or remit any part or all of such fees for any one year; provided that no discrimination in the collecting, waiving or remitting of same be made licensee under this Act. Acts 1943, 48th Leg., p. 627, ch. 359, § 6.

¹ Articles 4512a—1 to 4512a—18.

² Article 4512a—2.

Art. 4512a—9. Schools and Colleges of Chiropractic; course of instruction

A recognized and/or accredited School or College of Chiropractic shall teach a course of instruction of not less than four (4) years of eight (8) months each (which may run successively) of not less than thirty-six hundred (3600) fifty-five-minute class hours of actual attendance in the following subjects: Anatomy, including Embryology, Histology, Syndesmology, Arthrology, Myology, Angiology, Neurology, Splanchnology, Spinology, Physiology, Hygiene and Sanitation, Symptomatology and Pathology, Nerve tracing, and Palpation, Spinograph Analysis; Philosophy; Principles and Practices of Chiropractic; Chiropractic Adjusting; Biochemistry; Bacteriology; Diagnosis, Dissecting, Roentgenology, non-medical and manipulative therapeutics; and a recognized Chiropractic School or College must have premises either owned in fee simple by the Chiropractic School or to which it has the exclusive right of possession and use for a period deemed sufficient by the Board, embracing adequate executive offices, lecture rooms, amphitheatres, and laboratories, for use in teaching the various subjects in the curriculum of the school based on the number of freshman students annually admitted. It must have a properly organized faculty, the members of which have been thoroughly trained in the teaching of their respective subjects, and who shall hold a degree from a college or university, and also be graduates of a recognized chiropractic school or college, and the laboratories used in the teaching of these subjects must be adequately equipped for teaching and demonstration in each of said subjects. No school of Chiropractic shall be deemed recognized unless and until it shall be so classified by the Board, and the Board shall have authority and it is hereby made its duty to so act. All classifications shall be based upon evidence deemed sufficient by the Board. Classifications otherwise made shall be without effect. In making such classifications the Board may act upon any evidence introduced before it, including the personal knowledge and testimony of its members or any of them, or upon reports of inspectors appointed by the Board or other disinterested, impartial persons of good character, possessing sufficient knowledge, skill and ability to make the said inspections and reports. All reports of inspectors shall be in writing, verified by affidavit, and shall be prima facie evidence of the truth of the statements contained therein. Any member of the Board may be appointed as inspector; but no member of the Board shall be required to serve as inspector unless he voluntarily elects to do so. It shall be the duty of the Board to make classification of any Chiropractic School named in an application for license to practice Chiropractic. Acts 1943, 48th Leg., p. 627, ch. 359, § 7.

Art. 4512a—10. Examinations

The Board shall not grant a license to any person until such person shall have successfully passed a written examination given by the Board, provided that the examination of licensee under this Act¹ shall include a written examination in Physiology, Anatomy, Hygiene and Sanitation, Biochemistry, and Pathology as taught in schools and colleges where each of such subjects taught are of equal magnitude with that required of licensed practitioners of medicine and surgery in this State; provided those who are graduate chiropractors of a reputable chiropractic college who are actively practicing chiropractic in this State on the effective date of this Act and who successfully pass this examination, shall be relieved from meeting the requirements of having had two (2) years college training and thirty-six hundred (3600) hours in a chiropractic school or college as herein provided. Before the Board allows

any person to take an examination, it shall find that said person is of good moral character, a citizen of the United States, has at least two (2) years college work, or the equivalent, and shall be at least twenty-one (21) years of age, and shall be a graduate of a recognized chiropractic school or college; provided those now in the armed forces of the United States possessing diplomas from a Chiropractic School or College approved by the Board may be granted a license under the same conditions, upon their honorable discharge from such armed forces or within one (1) year thereafter. Acts 1943, 48th Leg., p. 627, ch. 359, § 8.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—11. Request for examination; grade required; granting license to person not entitled thereto

(a) Any person desiring to take the examination shall, at least fifteen (15) days prior to a regular meeting of the Board, make written request for such examination to the Executive Secretary. Such request shall be accompanied by an examination fee of Twenty-five Dollars (\$25). The applicant shall state his or her age, name, sex, place of residence, name and location of the Chiropractic School or College from which such applicant graduated, length of time devoted to the study of Chiropractic, the date of graduation, together with such other data as is required in the application. For identification purposes, the applicant shall submit with his application an unretouched photograph showing front view of head and shoulders.

(b) The Board shall advise each applicant in due time whether or not the applicant has been accepted, and the date and place of examinations to be held. The Board shall prepare reasonable questions in the subjects enumerated in Section 7 hereof¹ and fairly mark and grade the papers thereto, all of which shall be done solely for the purpose of determining whether the applicant is reasonably qualified to practice Chiropractic. All persons taking the examination shall be designated by a number, instead of name, so identity will not be discovered or disclosed to the Board until after the examination has been conducted and the answers thereto have been graded.

(c) Examinees, in order to successfully pass the examinations, must make an average grade of seventy-five (75) per cent, and a grade of at least sixty (60) per cent in each subject.

(d) In case an applicant fails in the first examination, said applicant shall be entitled to a second examination upon the payment of the sum of Fifteen Dollars (\$15).

(e) If any member of the Board, acting singly or together with any other member of the Board, shall willfully and knowingly grant or issue any license to any person to practice chiropractic under the provisions of this Act² where such person to whom such license is issued or granted has not fully complied with all of the provisions of this Act thereby entitling such person to a license under the terms and provisions of this Act, he shall be guilty of a misdemeanor and upon conviction therefor shall be fined not less than Two Hundred Dollars (\$200) nor more than One Thousand Dollars (\$1,000) or may be confined in the county jail for a term of not less than ten (10) days nor more than sixty (60) days, or by both such fine and imprisonment. The term of office of any such member of the Board who may be convicted under the terms of this section shall immediately expire and it shall be the duty of the Governor of the State of Texas to fill such vacancy by the appointment of a new member to the Board. Acts 1943, 48th Leg., p. 627, ch. 359, § 9.

¹ Article 4512a—9.

² Articles 4512a—1 to 4512a—18.

Art. 4512a—12. Persons having licenses from other states

Any person furnishing reasonable proof to the Board of good moral character, having a license to practice Chiropractic from any other State, which license is in good standing and is issued by a Chiropractic Board requiring at least equal qualifications as is provided under this Act,¹ may be entitled to a license without examination, upon the payment of Fifty Dollars (\$50) accompanying application for license at the discretion of the Board. Acts 1943, 48th Leg., p. 627, ch. 359, § 10.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—13. Annual license, failure to obtain

Should any practicing Chiropractor fail to secure his annual renewal license and continue to practice Chiropractic in this State beyond December 31st of each year, said person shall be considered an illegal practitioner, and registration and the right to practice shall be automatically suspended until such annual renewal license shall have been obtained. Acts 1943, 48th Leg., p. 627, ch. 359, § 11.

Art. 4512a—14. Revocation, cancellation or suspension of license

The Board shall have the authority to revoke, cancel, or suspend the license, or refuse to give the examinations to any applicant for the following reasons:

1. For failure to comply with, or the violation of, any of the provisions of this Act;¹

2. If it is found that said licensee no longer possesses a good moral character or is in any way guilty of deception or fraud in the practice of Chiropractic;

3. The presentation to the Board, or use of any license, certificate, or diploma, which was illegally or fraudulently obtained, or if any fraud or deception has been practiced in passing the examination;

4. Conviction of a crime of the grade of a felony, or one which involves moral turpitude, or the procuring or assisting in the procuring of a criminal abortion;

5. Habits of intemperance, or drug addiction, calculated in the opinion of the Board to endanger the lives of patients;

6. The use of any advertising statement of a character to mislead the public;

7. Employing directly or indirectly any person whose license to practice Chiropractic has been suspended or revoked, or the association in the practice of Chiropractic with any person or persons whose license to practice Chiropractic has been suspended or revoked, or any person who has been convicted of the unlawful practice of Chiropractic in Texas or elsewhere. Provided further the terms of Articles 4506 and 4507 of the Revised Civil Statutes of Texas of 1925, as amended and Articles 4508 and 4509 of the Revised Civil Statutes of Texas of 1925, shall be construed as applicable to the Board of Chiropractic Examiners and to the practice of Chiropractic as well as and in addition to the Board of Medical Examiners and the practice of medicine. Acts 1943, 48th Leg., p. 627, ch. 359, § 12.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—15. Notice to accused licensee

(a) Upon reasonable proof that any licensed Chiropractor is violating the provisions of this Act,¹ the Board shall give at least twenty (20) days written notice to the accused of the time and place for hearing, and if it is found by the Board, after hearing, that said licensee has been

found guilty of violating the provisions of this Act, the Board shall cancel, suspend or revoke the license of said licensee.

(b) If the accused licensee be aggrieved by the action of the Board, he may appeal to the District Court of the county where he resides, or where the violation was alleged to have taken place, and said District Court shall have the right to try said appeal de novo, the same as if said cause had originally been filed in said court. Acts 1943, 48th Leg., p. 627, ch. 359, § 13.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—16. Prosecution where District Attorney fails to prosecute

Upon the application of the Board, or a majority thereof to the Attorney General setting forth that the County or District Attorney of a county or district has failed to prosecute or proceed against any person violating the terms of this Act,¹ setting forth that application and request has been made of such County or District Attorney, and that such request or application has been neglected or refused, the Attorney General shall proceed against or in the county where the violation occurred, either by civil or criminal proceedings. Acts 1943, 48th Leg., p. 627, ch. 359, § 14.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—17. Punishment for violations

Any person violating any of the provisions of this Act¹ shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not to exceed Five Hundred Dollars (\$500) or imprisonment in the county jail for a term not to exceed three (3) months, or shall be subject to both such fine and imprisonment. Acts 1943, 48th Leg., p. 627, ch. 359, § 15.

¹ Articles 4512a—1 to 4512a—18.

Art. 4512a—18. Partial invalidity

All laws and parts of laws in conflict with the provisions of this Act¹ are hereby repealed, and any part or parts of this Act declared unconstitutional shall not affect the validity or force of any other sections or parts of this Act not declared to be unconstitutional. Acts 1943, 48th Leg., p. 627, ch. 359, § 16.

¹ Articles 4512a—1 to 4512a—18.

CHAPTER EIGHT—PHARMACY

Art. 4542a. State Board of Pharmacy to regulate practice of Pharmacy

Sec. 1. The State Board of Pharmacy shall be composed of six (6) members to be appointed by the Governor, each of whom shall have been a registered pharmacist in this state under the provisions of law for a period of five (5) years next preceding the appointment, and who continues to be actively engaged in the practice of pharmacy while serving the term for which he is appointed; and shall at the time of such appointment be in good standing and engaged in retail pharmacy and who is not a member of the faculty of any college or school of pharmacy, or shall have a financial interest in such school or college, and the majority of the Board shall be graduates of a recognized college or school of pharmacy. The term of office of each member of said Board shall be six (6) years. In case of death, resignation or removal of any member of the Board, the vacancy of the unexpired term shall be filled by the Gov-

ernor in the same manner as other appointments. Each appointee to the State Board of Pharmacy shall within fifteen (15) days from the date of his appointment qualify by taking the Constitutional Oath of office. Provided that the present members of the Board shall serve the term for which they have been appointed. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 1.

Funds received, use of

Sec. 3. The fund realized from all fees payable under this Act shall first be applied to the payment of all necessary expenses of the Board, and the remainder is to be applied by order of the Board to compensate members of said Board, said compensation to each member of the Board not to exceed Ten (\$10.00) Dollars per day, or Three Hundred (\$300.00) Dollars per year, exclusive of necessary expenses in performance of his duties. Provided, however, that the premium on any bond required of the Secretary, or any other employee of the Board, shall be paid out of said fund, as well as the expenses of any employee incurred in the performance of his duties. The State Board of Pharmacy shall defray all expenses under this law from fees provided in this Act, and the State of Texas shall never be liable for the compensation or expenses of any member of the Board, or its officers or employees, or any other expenses thereof. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 2.

Powers and duties of Board; records

Sec. 5. The Board shall preserve a record of its proceedings in a book kept for that purpose. A record shall be kept showing the name, age and last known mailing address of each applicant for examination, the name and location of the University, School or College of Pharmacy from which he holds credentials, and time devoted to the study and practice of pharmacy, together with such other information as the Board may desire to record. Said record shall also show whether applicants were rejected or licensed, and shall be prima facie evidence of all matters therein contained.

The Board shall have power to appoint committees from its own membership. The duties of such committees shall be to consider such matters pertaining to the enforcement of this Act and the regulations promulgated in accordance therewith as shall be referred to said Committees, and they shall make recommendations to the Board with reference thereto.

The Board, any Committee, or any member thereof, shall have the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records, and documents; to administer oaths and to take testimony concerning all matters within its or his jurisdiction. The Board shall not be bound by strict rules of procedure or by the rules of evidence in the conduct of its proceedings, but the determination shall be founded upon sufficient legal evidence to sustain it. The Board may be represented by the Attorney General, or by the District Attorney or the County Attorney, and by other counsel when necessary.

The Board shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act. Said action for injunction shall be in addition to any other action, proceeding or remedy authorized by law.

If a witness refuses to comply with said subpoena issued by said Board, or if a witness in attendance before the Board, or one of its duly appointed Committees, refuses without reasonable cause to be examined or to answer a legal or pertinent question, or to produce books, records or papers, or to furnish other information when ordered to do so by the

Board, the Board may apply to the Judge of the District Court of any county, and, upon proof of affidavit of the fact, have a rule or order, returnable in not less than one (1) nor more than five (5) days, directing such witness to show cause before the court who made the order, or any other District Judge of said county, why he should not be punished for contempt. Upon the return of such order, the Judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard, and if the Judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce such books, records and documents as he was ordered to bring or produce, he shall forthwith punish the offenders as for contempt of court.

Subpoenas shall be served and witnesses' fees and mileage paid, as in civil cases in the District Court in the county to which such witnesses shall be called. Witnesses subpoenaed at the instance of the Board shall be paid their fees and mileage by the Board out of the funds provided for in this Act.

The Board shall adopt an official seal and license of suitable design and shall maintain an office where all of the permanent records shall be kept. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 3.

Meetings for examination of applicants; reports to Governor

Sec. 6. The State Board of Pharmacy shall hold regular meetings for the examination of applicants for registration, and for the transaction of such other business as may legally come before it twice a year, and may hold such additional special meetings as may be necessary. The time and place of the regular meetings shall be designated at a regular session of the Board, and the additional meetings to be held at such places and on such dates as may be designated by the President of the Board.

The Board shall make annually to the Governor of the state a regular report of its receipts and disbursements; also the names of all pharmacists duly registered under this Act during the fiscal year for which the report is made, and the names of all pharmacists whose licenses or permits have been cancelled during the fiscal year. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 4.

Enforcement of laws

Sec. 7. It shall be the duty of the State Board of Pharmacy to see that all laws which pertain to the practice of pharmacy are enforced, and to co-operate with other State and Federal Agencies regarding any violations of the Narcotic Law. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 5.

Distribution of drugs or medicines, except in original packages, unlawful; exceptions

Sec. 8. It shall be unlawful for any person who is not a registered pharmacist under the provisions of this Act to compound, mix, manufacture, combine, prepare, label, sell or distribute at retail or wholesale any drugs or medicines, except in original packages. Provided that all persons now registered as pharmacists in this state shall have all the rights granted to pharmacists under this Act. Provided, however, that nothing in this Act shall apply to or interfere with any licensed practitioner of medicine, dentistry or chiropody, who is duly registered as such by his respective State Board of Examiners of this state, who shall supply his or her patients, as a physician, dentist or chiropodist, and by them

employed as such, with such remedies as he or she may desire and who does not keep a pharmacy, open shop or drug store, advertised or otherwise, for the retailing of medicines or poisons; and provided, further, that nothing contained in this Act shall be construed to prevent the personal administration of drugs and medicines carried by any physician, surgeon, dentist, chiropodist or veterinarian licensed by his respective Board of Examiners of this state, in order to supply the immediate needs of his patients; nor to prevent the sale by persons, firms, joint stock companies, partnerships or corporations, other than registered pharmacists, of patent or proprietary medicines, or remedies and medicaments generally in use and which are harmless if used according to instructions as contained upon the printed label; and insecticides and fungicides and chemicals used in the arts, when properly labeled; nor insecticides or fungicides that are mixed or compounded for purely agricultural purposes. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 6.

Examinations; application; qualifications; license; persons from other states

Sec. 9. Every person desiring to practice pharmacy in the State of Texas shall be required to pass the examination given by the State Board of Pharmacy. The applicant shall make application by presenting to the Secretary of the Board, on forms furnished by the Board, satisfactory sworn evidence that he has attained the age of twenty-one (21) years, is of good moral character, is a citizen of the United States, and has at least graduated from a first grade high school, or has a preliminary education equivalent thereto, permitting matriculation in the University of Texas, and that he has attended and graduated from a reputable university, school or college of pharmacy which meets with the requirements of the Board, and shall have had at least one (1) year of practical experience in a retail pharmacy under the direct supervision of a registered pharmacist. A university, school or college of pharmacy is reputable whose entrance requirements and course of instruction are as high as those adopted by recognized universities, schools or colleges of pharmacy, and whose course of instruction shall be the equivalent of not less than four (4) terms of eight (8) months each, and approved by the Board.

The examination shall consist of written, oral and/or practical tests in pharmacy, chemistry, pharmaceutical jurisprudence, posology, toxicology, bacteriology, physiology and materia medica, and in such other subjects as may be regularly taught in all recognized universities, schools and colleges of pharmacy.

Each applicant for license to practice pharmacy in Texas shall be given due notice of the time and place of examination. All examinations shall be conducted in writing and by such other means as the State Board of Pharmacy shall deem adequate to ascertain the qualifications of applications, and in such manner as shall be entirely fair and impartial to all individuals in every recognized school of pharmacy. All applicants examined at the same time shall be given the same regular examinations, and each applicant successfully passing the examination and meeting all requirements of the State Board of Pharmacy shall be registered by the Board as possessing the qualifications required by this law, and shall receive from said Board a license to practice pharmacy in this state. Provided that the State Board of Pharmacy may in its discretion, upon the payment of Twenty-five (\$25.00) Dollars, grant a license to practice pharmacy to persons who furnish proof that they have been registered as such in some other state or territory, and that they are of good moral character, provided that such other Board in its examination required the same general degree of fitness required by this state, and

grants the same reciprocal privileges to pharmacists of this state. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 6.

Fees; examination of books and records

Sec. 11. The State Board of Pharmacy shall charge a fee of Ten (\$10.00) Dollars for examining an applicant for license, which fee must accompany the application. If an applicant who, because of failure to pass the examination, is refused a license, he shall be permitted to take a second examination without additional fee, provided the second examination is taken within a period of one (1) year. The State Auditor of the State of Texas shall, not less than once each year, examine and audit the books and records of the State Board of Pharmacy, and report his findings to the Governor of the State of Texas. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 9.

Revocation or suspension of license; appeal

Sec. 12. The State Board of Pharmacy may in its discretion refuse to issue a license to any applicant, and may cancel, revoke or suspend the operation of any license by it granted for any of the following reasons:

- (a) That said applicant is guilty of gross immorality;
- (b) That said applicant or licensee is guilty of any fraud, deceit or misrepresentation in the practice of pharmacy or in his seeking admission to such practice;
- (c) That said applicant or licensee is unfit or incompetent by reason of negligence;
- (d) That said applicant or licensee has been convicted of a felony or a misdemeanor which involves moral turpitude;
- (e) That said applicant or licensee is an habitual drunkard or is addicted to the use of morphine, cocaine, or other drugs having similar effect, or has become insane or has been adjudged by a court of competent jurisdiction to be of unsound mind;
- (f) That said licensee, directly or indirectly, aids or abets in the practice of pharmacy any person not duly licensed to practice under this Act;
- (g) That said applicant or licensee has been convicted in either a State or Federal Court of the illegal use, sale or transportation of intoxicating liquor or narcotic drugs.

Revocation, cancellation or suspension of a license shall be only after ten (10) days notice and a full hearing. Any person whose license to practice pharmacy has been refused, revoked or suspended by the Board may, within twenty (20) days after the effective date of the order, decision or ruling of the Board, take an appeal to any of the District Courts, where said applicant resided at the time said license was refused, revoked, or suspended. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 9.

Display of certificate in place of business

Sec. 13. All certificates and current renewal receipts for pharmacists as herein provided shall be at all times conspicuously displayed in the place of business where registrant is engaged as such. Any certificate to practice pharmacy in Texas which shall be found displayed in any place of business where the person to whom said certificate was originally issued is not regularly employed as a pharmacist, and actually engaged in the service of filling prescriptions, may be cancelled, suspended or revoked by the Board, and any inspector, member or official of the Board is hereby empowered to take charge of such certificate pending final hearing before the Board as to revocation of same. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 10.

Annual renewal fee; practicing without renewal certificate; persons in military service

Sec. 14. On or before the first day of each year every licensed pharmacist in this state shall pay to the Secretary of the State Board of Pharmacy an annual renewal fee of Five (\$5.00) Dollars for the renewal of his license to practice pharmacy for the current year. On receipt of said renewal fee, the Board shall issue an annual renewal certificate bearing the number of the license, the year for which renewed and other information for the records of the Board which said Board may deem necessary. When a pharmacist shall have failed to pay his annual renewal fee before March 1st of each year, it shall be the duty of the Board to notify such pharmacist at his last address known to the Board that such annual renewal fee is due and unpaid, and if payment of the fee is not received by the Secretary of the State Board of Pharmacy within twenty (20) days after notification, said license shall be suspended, and such person in order to be re-instated shall be required to pay one (1) annual renewal fee as a penalty, in addition to the sum of all fees such person may be in arrears. Said renewal fee shall be due on January 1st of each year, and shall become delinquent on March 1st of each year.

Practicing pharmacy without an annual renewal certificate for the current year, as provided herein, shall have the same force and effect, and be subject to all penalties of practicing pharmacy without a license.

Any registered pharmacist whose certificate of registration has expired while he has been engaged in Federal service or in active duty with the Army of the United States, the United States Navy, the United States Marine Corps, the United States Coast Guard, or the State Militia called into service or training of the United States of America, or in training or education under the supervision of the United States, preliminary to induction into the military service may have his certificate of registration renewed without paying any lapsed renewal fee or registration fee, or without passing any examination, if within one (1) year after termination of said service, training or education, other than by dishonorable discharge, he furnishes the State Board of Pharmacy with affidavit to the effect that he has been so engaged and that his service, training or education has been so terminated. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 11.

Stores to display "Pharmacy"

Sec. 15. In all stores in which a registered pharmacist is continuously employed and where the provisions of this Act have been fully complied with, there shall be displayed in a prominent place in or on the front of said store the word "pharmacy". As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 12.

Unlawful use of "Pharmacy"

Sec. 16. It shall be unlawful for any person to display in or on any store or place of business the word "pharmacy", either in English or any foreign language, unless there is continuously employed therein a registered pharmacist. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 13.

Permits for stores or factories; fee

Sec. 17. Every person, firm, joint stock company, partnership or corporation desiring to operate a retail pharmacy or drug store in this state, as the same is defined herein; and every manufacturer of drugs and medicines, as defined herein, after the passage of this Act, shall procure from the State Board of Pharmacy a permit for each store or factory to be operated by making an application to the Board, upon a form to be

furnished by the Board, setting forth under oath ownership and location, and the name and certificate number of the pharmacist registered in this state who is to be continually employed by the drug store or pharmacy, or the pharmaceutical chemist or chemist qualified by scientific training, who is to be employed by the factory or manufacturer; provided that the Board may in its discretion refuse to issue such permit to such applicant unless furnished with satisfactory proof that such applicant is engaged in the business of conducting a pharmacy, drug store or factory for the purpose of manufacturing drugs.

Provided further, that at any time after the issuance of a permit by the State Board of Pharmacy to such applicant, the Board may revoke, suspend or cancel the permit when satisfactory proof has been presented to the Board that said permit holder is not conducting a bona fide pharmacy or drug store. The permit provided for herein shall be issued annually by the Board upon receipt of proper application accompanied by a fee of Two (\$2.00) Dollars. This permit is to be displayed conspicuously at all times in the pharmacy, drug store or factory to which it is issued.

All such permits shall expire on May 31st of each year and must be renewed on or before June 1st of each year.

Every person, firm, joint stock company, partnership, corporation or manufacturer desiring to open a new pharmacy, drug store or factory shall procure the permit above mentioned before beginning its operation as such, and the same discretionary powers may be used by the Board in passing upon such application; not more than one (1) store or factory may be operated under one (1) permit.

In case of a change in personnel of registered pharmacists, the Board shall be notified of such change within ten (10) days; provided the same pharmacist's name shall not appear on more than one permit. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 14.

"Pharmacy" or "drug store" defined

Sec. 19. A pharmacy or drug store, as used in this Act, is any store or place where drugs or medicines are sold or furnished in any manner at retail to the consumer, wherein a registered pharmacist is continuously employed. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 15.

Definitions

Sec. 20. A "pharmacist", as used in this Act, shall mean a person licensed by the State Board of Pharmacy to prepare, compound and dispense physicians' prescriptions, drugs, medicines and poisons.

A "manufacturer", as used in this Act, shall mean one who processes, combines, mixes, compounds, prepares, labels, packages or manufactures medicines or drugs for sale or distribution, either at wholesale or retail.

The term "Board" as used in this Act shall mean the State Board of Pharmacy. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 16.

Filed without the Governor's signature, May 31, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 18 of the amendatory Act of 1943, read as follows: "If any paragraph, clause, section or sub-section of this Act shall be held unconstitutional, the validity of the remaining provisions of this Act shall not be affected thereby, but shall remain in full force and effect."

Section 19 repealed all conflicting laws and parts of laws. Section 20 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Display of license and application for renewal, see Vernon's Rev.Pen.Code, art. 758a.

Penalty for violating provisions of this article, see Vernon's Rev.Pen.Code, art. 758a.

CHAPTER NINE—DENTISTRY

Art. 4544. Examination for license to practice dentistry

It shall be the duty of the Board to examine all applicants for license to practice dentistry in this state; and the Board shall examine and grade all papers submitted by such applicants and report to such applicants within a reasonable time after the date of such examination, and said report shall give to each applicant the grades made by said applicant upon each and every subject upon which he or she was examined by said Board. Each person applying for examination shall pay to said Board a fee of Twenty-five (\$25.00) Dollars, and upon passing a satisfactory examination before said Board on subjects pertaining to dentistry which the Board may require shall be granted a license to practice dentistry in this state. As amended Acts 1943, 48th Leg., p. 576, ch. 340, § 1.

Approved and effective May 15, 1943.

Section 8 of the amendatory Act of 1943 repealed P.C. art. 752c, § 7.

Section 9 repealed all conflicting laws and parts of laws.

Section 10 read as follows: "If any Article, Section, sub-section, 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 Legis-

lature hereby declares that it would have passed this Act and each Section, sub-section, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the Sections, sub-sections, sentences, clauses or phrases be declared unconstitutional."

Section 11 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 4545. Qualifications of applicants

Each applicant for a license to practice dentistry in this state shall be not less than twenty-one (21) years of age, a citizen of the United States of America, and shall present a diploma from a reputable dental college and evidence of good moral character. A dental college shall be held reputable whose entrance requirements and course of instruction are as high as those adopted by the better class of dental colleges of the United States, and whose course of instruction shall be the equivalent of not less than four (4) terms of eight (8) months each. As amended Acts 1943, 48th Leg., p. 576, ch. 340, § 2.

Art. 4550a. Application, registration fund, and secretary

1. It shall be the duty of all persons now lawfully qualified and engaged in the practice of dentistry in this state, or who shall hereafter be licensed for such practice by the State Board of Dental Examiners, to be registered as such practitioners with the State Board of Dental Examiners on or before March 1st of each calendar year. Each person so registering shall pay in connection with such annual registration for the receipt hereinafter provided for, a fee of Five (\$5.00) Dollars, such payment to be made to said State Board of Dental Examiners. Every person so registering shall file with said Board a written application setting forth such facts as the Board may require. Upon receipt of such applications, accompanied by such fees, said Board, after ascertaining either from its records or other sources deemed by it to be reliable, that the applicant is a duly licensed practitioner of dentistry in this state, shall issue to the applicant an annual registration certificate or receipt certifying that he has filed such application and has paid the required fee; provided, that the filing of such application, the payment of such fee, and the issuance of such receipt therefor, shall not entitle the holder thereof to lawfully practice dentistry within the State of Texas unless he has in fact been previously licensed as such practitioner by the State Board of Dental Examiners, as provided by this law, and has duly recorded his license in

the county or counties in which the same may be required by law to be recorded, and unless said license is in full force and effect; and provided further, that in any prosecution for the unlawful practice of dentistry, such receipt showing payment of the annual registration fee required by this Chapter shall not be treated as evidence that the holder thereof is lawfully entitled to practice dentistry.

2. If any person required to register as a practitioner of dentistry under the provisions hereof, shall fail or refuse to apply for such registration and pay such fee on or before March 1st of each calendar year, as hereinabove set forth, his license to practice dentistry, issued to him, shall thereafter stand suspended so that for thereafter in practicing dentistry, he shall be subject to the penalties imposed by law upon any person unlawfully practicing dentistry. Provided, that such license shall be re-instated at any time upon written application of the holder made to said Board with such information or facts which the Board may require, accompanied by the payment of the annual registration fees in arrears and an additional fee of Five (\$5.00) Dollars. Provided, however, that the requirements governing the payment of annual registration fees and penalties for late registration shall not apply to licensees who are on active duty with the Armed Forces of the United States of America, and are not engaged in private or civilian practice.

3. All annual registration fees collected by the State Board of Dental Examiners under this Act shall be placed in the State Treasury every thirty (30) days, as collected, to the credit of a special fund to be known as the "Dental Registration Fund", and all expenditures from this fund shall be on order of the State Board of Dental Examiners, on warrants issued by the State Comptroller for the purposes and in the amounts fixed by the Legislature in the general appropriations bills. On August 31st, of each year, all money in excess of Twenty Thousand (\$20,000.00) Dollars remaining in said "Dental Registration Fund" shall revert to the General Revenue Fund in the State Treasury. The State Board of Dental Examiners shall be authorized to employ and to compensate from such special fund employees and such other persons as may be found necessary to assist the local prosecuting officers of any county in the enforcement of all laws of the state prohibiting the unlawful practice of dentistry, and to carry out the other purposes for which said fund is hereby appropriated. Provided, that all such prosecutions shall be subject to the direction and control of the regularly and duly constituted prosecuting officers, and nothing in this Act shall be construed as depriving them of any authority vested in them by law.

To aid the Board in performing the duties prescribed in this Section, the Board is hereby authorized to employ a Secretary who shall receive a salary to be fixed by the Board, and who shall make and file a surety bond in a sum not less than Five Thousand (\$5,000.00) Dollars, conditioned for the faithful performance of all the duties of his office and the safekeeping and proper disbursement of said "Dental Registration Fund" and all other funds coming into his hands; such salary shall be paid out of said "Dental Registration Fund" and shall not be in any way a charge upon the general revenue of the State. Said Board shall employ and provide such clerks and employees as may be needed to assist the Secretary in performing his duties and in carrying out the purposes of this Act, provided, that their compensation shall be paid only out of the said "Dental Registration Fund." All disbursements from "Dental Registration Fund" shall be made only upon the written approval of the President and Secretary of said Board and upon warrants drawn by the Comptroller to be paid out of said fund. As amended Acts 1943, 48th Leg., p. 576, ch. 340, § 3.

Approved and effective May 15, 1943.

Art. 4551a. Persons regarded as practicing dentistry

Any person shall be regarded as practicing dentistry within the meaning of this Chapter:

(1) Who publicly professes to be a dentist or dental surgeon or who uses or permits to be used for himself or for any other person, the title of "Doctor", "Dr.", "Doctor of Dental Surgery", "D.D.S.", "Doctor of Dental Medicine", "D.M.D.", or any other letters, title, terms or descriptive matter which directly or indirectly represents him as being able to diagnose, treat, remove stains or concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, alveolar process, gums or jaws.

(2) Who shall offer or undertake, by any means or methods whatsoever, to diagnose, treat, remove stains, or concretions from teeth, or shall treat, operate or prescribe, by any means or methods, for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, alveolar process, gums or jaws, and charge therefor, directly or indirectly, money or other compensation.

(3) Any person, firm, association, or corporation who professes, advertises, sells, offers, or undertakes to construct, produce, reproduce, make, repair, fit, adjust, substitute, or deliver to or accepts from the general public, any model or impression of the human mouth, teeth, alveolar process, gums or jaws, or any prosthetic or orthodontia appliance, denture, or structure.

(4) Any one who owns, maintains or operates any office or place of business where he employs or engages under any kind of contract whatsoever, any other person or persons to practice dentistry as above defined shall be deemed to be practicing dentistry himself, and shall himself be required to be duly licensed to practice dentistry as hereinabove defined and shall be subject to all of the other provisions of this Chapter, even though the person or persons so employed or engaged by him shall be duly licensed to practice dentistry as hereinabove defined. As amended Acts 1943, 48th Leg., p. 576, ch. 340, § 4.

Approved and effective May 15, 1943.

CHAPTER FOURTEEN—GROUP HOSPITAL SERVICE**Art. 4590a. Nonprofit corporations for group hospital service—incorporation****Supervision by Board of Insurance Commissioners; requirements**

Sec. 1-a. All corporations organized under the provisions of this Act shall be under the direct supervision of the Board of Insurance Commissioners of the State of Texas, and shall be subject to the following requirements:

(a) Upon incorporation, and as a condition thereof, they shall have collected in advance from at least five hundred (500) applicants the application fee and at least one (1) month's payment for insurance. It shall be a condition of continued operation that a minimum membership of five hundred (500) be maintained;

(b) They shall file a statement of their operations for the year ending December 31 each year, said statement to reach the Board of Insurance Commissioners not later than March 1 of the succeeding year. The statements shall be on such forms and shall reveal such information as shall be required by the Board;

(c) They shall maintain solvency in both funds, i. e., the admitted assets of each fund shall exceed the liability of each fund, and it shall be a condition of licensing by the Board that such solvency be maintained;

(d) If any such corporation files an acceptable statement showing solvency, and otherwise complies with this Act, the Board shall issue it a certificate authorizing it to transact business for a period of not more than fifteen (15) months, and not extending beyond May 31, next following the date of said certificate;

(e) All certificate forms and application forms shall be approved by the Board of Insurance Commissioners and all rate schedules shall be filed with the Board before they may be used by the corporation;

(f) Each such corporation shall place with the State Treasurer through the Board of Insurance Commissioners a deposit equal to One Hundred Dollars (\$100) for each one thousand (1,000) of its members and fractional part of such number, provided that the maximum deposit shall be Two Thousand Dollars (\$2,000). The deposit shall be liable for the payment of all judgments against the corporation and subject to garnishment after final judgment against the corporation. When such deposit becomes impounded or impaired, it shall at once be replenished by the corporation; and if not replenished immediately on demand by the Board, the corporation may be regarded as insolvent and dealt with accordingly;

(g) They shall furnish a bond for the officer or employee responsible for the handling of the funds, the bond to be in some Surety licensed by the Board of Insurance Commissioners to do business in Texas, and the bond to be in a minimum amount of One Thousand Dollars (\$1,000), to be at all times at least equal to the assets on hand, with a maximum bond of Twenty-five Thousand Dollars (\$25,000). In addition, it shall furnish to all employees who have access to any of the funds separate bonds, or a blanket bond, in amounts to be reasonably fixed by the Board with a minimum of Five Hundred Dollars (\$500), and a maximum of Ten Thousand Dollars (\$10,000). All such bonds shall be made payable to the Board of Insurance Commissioners for the use and benefit of the corporation;

(h) It is required of all such corporations that all claims under certificates be paid in full within sixty (60) days after the services called for by the particular certificate have been rendered, and after receipt of due proof of claim. Written notice of claims given to the corporation shall be deemed due proof in the event the corporation fails, upon receipt of notice, to furnish the claimant within fifteen (15) days such forms as are usually furnished by it for filing such claims.

The Board of Insurance Commissioners shall cancel the certificate of authority of any corporation found to be operating fraudulently or improperly contesting its claims, or which fails to pay its valid claims in accordance with the provisions of this Section;

(i) Provided, further, a corporation operating under this Act may be dissolved at any time by a vote of its Board of Directors, and after such action has been approved by the Board of Insurance Commissioners. In the case of such voluntary dissolution, the disposition of the affairs of the corporation shall be made by the officers, and when such liquidation has been completed and a final statement, in acceptable form, filed with the Board of Insurance Commissioners, the facts shall be certified to the Attorney General who shall bring suit in a District Court in Travis County to declare the charter of the corporation cancelled.

In all other cases where a corporation operating under this Act is found to be insolvent, or to have violated the provisions of this Act, upon a determination of such condition, and after due notice and hearing, the affairs of such corporation shall be disposed of by a liquidator appointed by and under the supervision of the Board of Insurance Com-

missioners, or, in appropriate cases, under the direction of a court of competent jurisdiction in Travis County;

(j) The Board of Insurance Commissioners shall charge a fee of Twenty Dollars (\$20) for filing the annual statement of each corporation operating under this Act, and a fee of One Dollar (\$1) for the issuance of each certificate of authority to such corporation. Acts 1943, 48th Leg., p. 371, ch. 249, § 1-a.

Corporations to be nonprofit organizations; maximum salaries; claim and expense funds

Sec. 3. That said corporations shall be governed and conducted as nonprofit organizations for the purpose of offering and furnishing hospital services to their members, in consideration of the payment by such members of a definite sum for hospital care and services so contracted to be furnished; and provided that no paid officer or employee of said corporations shall receive more than Twelve Thousand Five Hundred Dollars (\$12,500) per annum for his services.

Provided, further, that there shall be two funds, namely, the Claim Fund and the Expense Fund.

The Claim Fund shall be composed of at least eighty (80) per cent of the regular payments by members, except the application fees.

The Expense Fund shall be composed of not more than twenty (20) per cent of regular payments by members, and the application fees.

The Application Fees shall be paid by applicants prior to becoming members, for the privilege of becoming members, and shall not apply as a part of the cost of receiving benefits under policies issued.

Both funds shall be invested only in such securities as are legal investments for the funds, except surplus funds of stock casualty insurance companies licensed under the laws of the State of Texas. The net income from the investments shall accrue to the funds, respectively, from which the investments were made.

The Claim Fund shall be disbursed only for the payment of valid claims and to the extent approved by the Board of Insurance Commissioners for the cost of settling contested claims, and necessary expenses directly incurred on investments of the Claim Fund. As amended Acts 1943, 48th Leg., p. 371, ch. 249, § 1.

Compensation and expenses

Sec. 13. No director of any corporation created by this Act shall receive any salary, wages or compensation for his services, but shall be allowed reasonable and necessary expenses incurred in attending any meeting called for the purpose of managing or directing the affairs of said corporation. Provided, however, that the directors may not have more than one (1) meeting per month, which meeting shall not last more than five (5) days. As amended Acts 1943, 48th Leg., p. 371, ch. 249, § 2.

Approved and effective May 15, 1943.

Sections 3 and 4 of the amendatory Act of 1943 read as follows:

"§ 3. That all laws or parts of laws in conflict with this Act are hereby declared inapplicable to any and all corporations chartered and operated under this Act.

"§ 4. If any article, section, subsection, sentence, clause or phrase of this Act shall for any reason be held unconstitutional or invalid, such decision shall not affect the validity of any remaining portion of this Act. The Legislature hereby declares that it would have passed this Act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sen-

tences, clauses or phrases thereof are declared unconstitutional."

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

Acts 1943, 48th Leg., p. 371, ch. 249, was entitled: "An Act amending Article 4590— a, Chapter 14, Title 71, Revised Civil Statutes of Texas, as revised, by amending Sections 3 and 13 of said Article; providing for the regulation of expenses of nonprofit corporations furnishing hospital care to their members, with limitations; providing for the investments of funds of said corporations; providing a saving clause; and declaring an emergency."

CHAPTER 15—AMBULANCES [NEW]

Art.

4590b. Regulation of public and private emergency ambulances; permits.

Art. 4590b. Regulation of public and private emergency ambulances; permits

Section 1. No person, firm or corporation shall operate or cause to be operated in the State of Texas, any emergency ambulance, public or private, or any other vehicle commonly used for the transportation or conveyance of the sick or injured, without first securing a permit therefor from the State Board of Health as hereinafter provided.

Sec. 2. Every ambulance, patrol automobile or vehicle hereinafter described, before permit is issued therefor, shall be equipped with and, when in service, carry as minimum equipment the following:

(a) A first aid kit;

(b) Traction splints for the proper transportation of fractures of the extremities.

Sec. 3. Every such ambulance or vehicle hereinabove described, when in service, shall be accompanied by at least one person who has acquired theoretical or practical knowledge in first aid as prescribed and certified by the American Red Cross, evidenced by a certificate issued to such person by the State Board of Health.

Provided, however, that after the passage of this Act, firms or establishments operating ambulances will be given sixty days in which to furnish such Red Cross First Aid Course as specified herein; and, further, that in the future, new employees employed for the purpose of operating ambulances will be given sixty days in which to complete said first aid course.

Sec. 4. Application for a permit to operate any such ambulance or other vehicle hereinabove described, on the streets of any city or on the highways of this state, shall be made upon a form prescribed by the State Board of Health. Said application shall be made to any public health officer of any of the political sub-divisions of this state where said applicant's principal place of business is located, and if said public health officer finds that the applicant has complied with the provisions of this Act and the rules and regulations prescribed by the State Board of Health for the purpose of carrying out this Act, it shall be the duty of the State Board of Health to issue a permit to said applicant, which permit shall expire two years from the date of its issuance. Such permit shall be renewed by the State Board of Health upon finding by a health officer of a political sub-division of this state that the holder of said permit is complying with the provisions of this Act and the rules and regulations of the State Board of Health. Provided, however, that all incorporated cities and towns are hereby authorized to regulate the use of sirens, warning signals, warning lights and illuminating and sound devices used on ambulances or other vehicles for the transportation or conveyance of sick or injured.

Each permit shall be numbered and posted at such place in the interior of the ambulance or vehicle as the State Board of Health may prescribe.

Any such permit may be subject to revocation by the State Board of Health upon the finding by a public health officer of any political sub-division of this state that said permittee has failed to comply with the provisions of this Act or the rules and regulations of the State

Board of Health; provided, however, that said permittee is given notice and an opportunity to be heard.

Sec. 5. Any person violating any provision of this Act shall, upon conviction thereof, be punished by a fine of not to exceed One Hundred (\$100.00) Dollars.

Sec. 6. 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. Acts 1943, 48th Leg., p. 633, ch. 360.

Approved May 22, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 7 of the Act of 1943 repealed all conflicting laws and parts of laws.

Section 8 declared an emergency and provided that the Act should take effect from and after Aug. 1, 1943.

Title of Act:

An Act regulating public and private emergency ambulances operated in the State of Texas; providing for issuance of

permits for their operation, and for the kind of minimum equipment and qualifications of persons operating the same and connected therewith; providing for permits, and requirements for operation thereof; prohibiting the operation thereof without a permit; providing penalties for violation thereof; providing for enforcement of this Act; repealing all conflicts; and declaring an emergency. Acts 1943, 48th Leg., p. 633, ch. 360.

TITLE 73—HOTELS AND BOARDING HOUSES

Blind persons accompanied by "Seeing Eye" dog, admittance of, see article 889a.

TITLE 76—INJUNCTIONS

IN GENERAL

Art.
4646b. Usurious loans; collecting or charging usurious interest; injunction against [New].

IN GENERAL

Art. 4646b. Usurious loans; collecting or charging usurious interest; injunction against

Section 1. The State of Texas through its Attorney General, or any District or County Attorney, may institute a suit in the District Court to enjoin any person, firm, or corporation or any officer, agent, servant or employee of such person, firm, or corporation who is engaged in the business of habitually loaning money for the use and detention of which usurious interest has been charged against or contracted to be paid by the borrower, from demanding, receiving or by the use of any means attempting to collect from the borrower usurious interest on account of any loan, or from thereafter charging any borrower usurious interest, or contracting for any usurious interest. All persons, firms, or corporations, and their agents, officers, servants and employees similarly engaged in making loans of money as herein defined, who reside in the same county, may be joined in a single suit and no plea of misjoinder of parties defendant shall ever be available to any defendant in such suit.

Sec. 2. By the term "habitually" as used in this Act, is meant the making of as many as three (3) loans on which or in connection with which usurious interest is charged or contracted for within a period of six (6) months next preceding the filing of any such suit.

By the term "usurious interest" as used in this Act, is meant interest at a rate in excess of ten (10%) per centum per annum.

Sec. 2a. Nothing in this Act shall in any way modify, alter or change any valid provision of Article 8 of Chapter 5 of House Bill No. 79, Acts of the Regular Session, 48th Legislature,¹ nor shall anything in this Act prevent charging of any actual and necessary expense, now or hereafter permitted and authorized by law, and such shall not be considered interest.

In the trial of any application for injunction under this Act there shall exist a prima facie presumption that the actual and necessary expenses of making any such loan was One (\$1.00) Dollar for each Fifty (\$50.00) Dollars, or fractional part thereof loaned; but this prima facie presumption shall extend only to the first note or debt owing at the same time by an individual to any person, firm, corporation, partnership or association, and shall not apply to any renewal or extension thereof unless the original note or debt and all extensions thereof were for a period of not less than sixty (60) days.

Sec. 3. In any such suit venue shall lie in the county of the residence of a defendant, or in a county where such business of loaning money is being conducted by such defendant.

Sec. 4. If any section, sentence, phrase, or part of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining portions thereof. Acts 1943, 48th Leg., p. 227, ch. 144.

¹ Article 342—508.

Approved April 19, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 5 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

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

Title of Act:

An Act authorizing the State of Texas through its Attorney General or any County or District Attorney to institute suit to enjoin any person, firm, corporation or their officers, agents, servants or employees engaged in the business of habitually making usurious loans, from demanding, receiving or attempting to collect usurious interest, or from thereafter charging or contracting for any usurious interest; providing that all persons, firms or corporations similarly engaged in making such usurious loans and who reside in the same county may be joined in a single suit and that no plea of misjoinder shall be available; defining the term "habitually" and

the term "usurious interest"; providing that nothing in this Act shall modify, alter or change Article 8 of Chapter 5 of House Bill No. 79, Acts Regular Session 48th Legislature; providing that nothing shall prevent the charging of the actual necessary expenses permitted by law, and that such shall not be considered interest; providing a prima facie presumption as to the amount of actual and necessary expenses, and providing when such presumption shall apply and when it shall not apply; fixing the venue of such suits; providing a savings clause; and declaring an emergency. Acts 1943, 48th Leg., p. 227, ch. 144.

TITLE 78—INSURANCE

CHAPTER ONE—COMMISSIONER OF INSURANCE

Art. 4686. 4497 Shall issue certificate of authority

1. No individual, group of individuals, association or corporation, unless now or hereafter otherwise permitted by Statute, shall be permitted to engage in the business of insuring others against those losses which may be insured against under the laws of this State. Should the Board of Insurance Commissioners be satisfied that any insurance carrier applying for a certificate of authority has in all respects fully complied with the law; and that if a stock company, its capital stock has been fully paid up, that is has the required amount of capital and surplus to policyholders; it shall be its duty to issue to such carrier a certificate of authority under its seal authorizing such carrier to transact insurance business, naming therein the particular kinds of insurance, for the period of not more than fifteen (15) months, and not extending more than ninety (90) days beyond the last day of February next following the date of said certificate. Any such carrier who may now be doing business within the State of Texas shall on and after the first day of January, 1944, be required to comply with all of the provisions as set out by this Act.

2. The word "carrier" as herein used is defined as that type of insurer which, in consideration of premium, issues policies to others insuring against those losses which may be insured against under the provisions of the law, including stock companies, mutual companies, reciprocals or inter-insurance exchanges, and Lloyd's Associations. Provided that the Board of Insurance Commissioners shall give preference to applications of domestic companies in checking and approving annual statements and issuing certificates of authority. As amended Acts 1943, 48th Leg., p. 607, ch. 352, § 1.

Approved and effective May 15, 1943.

Section 2 of the amendatory Act of 1943 repealed all conflicting laws and parts of laws.

Section 3 read as follows: "If any section or portion of section of this Act shall for any reason be declared invalid by a

Court of competent jurisdiction such adjudication shall not affect the validity of any other section or portion of section of this Act."

Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER TWO—INCORPORATION OF INSURANCE COMPANIES

Art. 4706. 4712, 3035, 2917. Investments of funds

No company, except any writing Life, Health and Accident Insurance, 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 provided such bonds are, at the time of purchase, interest-bearing or not in default.

(b) In bonds or first liens on unincumbered 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 forty (40%) per cent more

than the amount loaned thereon. The value of such real estate shall be determined by a valuation made under oath by two (2) freeholders of the county where the real estate is located, and if the buildings are considered a part of the value of the real estate, they must be insured against loss by fire for not less than sixty (60%) per cent of the value thereof, with loss-payable clause to such company.

(c) In bonds or other interest-bearing evidence of indebtedness of any county, road district, water district, municipality, any subdivision of a county, incorporated city, town, school district, sanitary or navigation district; any municipally owned revenue water system or sewer system bonds or warrants, when special revenues to meet the principal and interest payments of such municipally owned revenue water system and sewer system bonds or warrants shall have been appropriated, pledged or otherwise provided for by such municipality. Provided, before bonds or other interest-bearing evidence of indebtedness of navigation districts shall be eligible investments, such navigation districts shall contain a population of not less than three hundred and fifty-nine thousand (359,000) according to the last preceding Federal Census, and provided further that such navigation bonds and other evidence of indebtedness of navigation districts shall be issued by authority of law and the interest due thereon must never have been defaulted.

(d) 1. In the stocks, bonds, debentures, bills of exchange or other commercial notes or bills and securities of any solvent dividend paying corporation, incorporated under the laws of this state, or of the United States, or of any state, which has not defaulted in the payment of any of its obligations for a period of five (5) years, immediately preceding the date of the investment; provided such funds may not be invested in the stock of any oil, manufacturing or mercantile corporation organized under the laws of this state, unless such corporation has at the time of investment a net worth of not less than Two Hundred Fifty Thousand (\$250,000.00) Dollars, nor in the stock of any oil, manufacturing or mercantile corporation, not organized under the laws of this state, unless such corporation has a combined capital, surplus and undivided profits of not less than Two Million Five Hundred Thousand (\$2,500,000.00) Dollars.

2. The surplus funds of such insurance companies may be invested in the stocks, bonds or debentures of any solvent corporation organized under the laws of this state, or of the United States, or of any state.

3. Notwithstanding any and all provisions of sub-divisions 1 and 2 of this section (d), no such insurance company shall invest any of its funds in its own stock or 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.

(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 Subsection (b) hereof that such real estate shall be worth at least forty (40%) per cent more than the amount loaned thereon, and that the value of such real estate shall be determined by a valuation made under oath by two (2) 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 by the Federal Housing Administrator.

(g) In interest-bearing notes or bonds of the University of Texas issued under and by virtue of Chapter 40,¹ Acts of the 43rd Legislature, Second Called Session. As amended Acts 1943, 48th Leg., p. 61, ch. 54, § 1.

¹ Article 2603d.

Approved March 9, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency

clause was inoperative under Const. art. 3, § 39.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE

Art. 4716. 4724 Terms defined

Reinsurance of certain associations by legal reserve companies operating under this chapter, see article 5068—3.

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 sub-division or by any educational institution of the State of Texas which is now or hereafter may be constituted or organized under the laws of this state, and is authorized to issue such bonds and warrants under the Constitution and laws of this state, provided legal provision has been made by a tax to meet said obligations, or in the bonds and warrants of any educational institution of the State of Texas, or any municipally owned water system or sewer system when special revenues to meet the principal and interest payments as they accrue upon such obligations shall have been appropriated, pledged or otherwise provided by such municipality or educational institution; 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 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 within a period of five (5) years defaulted in the payment of any of its debts; or, in the debentures of any such corporation with a capital stock of not less than Five Million (\$5,000,000.00) Dollars where no lien exists, or, under the provisions of the indenture providing for the issuance of such debentures, can be created against the real or personal property owned by such corporation at the time the debentures were issued; but in no event shall the amount of such investment in the bonds or debentures 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 43rd 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 obligations 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 loan 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 sub-division 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 the 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 or invest in its own stock, nor more than five (5%) per cent of the amount 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, nor in the stock of any oil company or manufacturing company unless such corporation has capital stock of not less than Five Million (\$5,000,000.00) Dollars and unless such corporation has paid dividends for a period of five (5) years and has not defaulted in the payment of any of its debts for a period of five (5) years.

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 re-insured 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 re-insuring company, shall be considered as valid securities of such re-insuring 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 re-insuring company to dispose of such in-

vestments upon such notice as it may deem reasonable. As amended Acts 1943, 48th Leg., p. 192, ch. 111, § 1.

¹ 39 Stat. 360; 12 U.S.C.A. § 641 et seq.

² Article 2603d.

³ 12 U.S.C.A. §§ 1707-1715.

Approved April 7, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 4729. 4738 Dividends to be paid from expense loading and profits

No life insurance company organized under the laws of this state shall declare or pay any dividends to its policyholders, except from the expense loading and profits made by such company; provided, however, an insurance company not showing a profit may pay dividends on its participating policies from the expense loading on such policies; and provided further, that any payment of dividends from the expense loading shall not be discriminatory as between policy holders. This shall not prohibit the issuance of policies guaranteeing a definite payment or reduction in premiums, not exceeding the expense loading on said premiums. Where said reduction exceeds said expense loading, the proper reserve therefor must be held by the company to provide for the deficiency so arising in the net premium, but this shall not apply to payments to holders of special or board contracts heretofore issued. No such life insurance company shall declare or pay any dividends to its stockholders, except from the profits made by said company, not including surplus arising from the sale of stock. As amended Acts 1943, 48th Leg., p. 304, ch. 198, § 1.

Filed without the Governor's signature April 30, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 4732. 4741 Policies shall contain what

Sec. 12. In all family group policies there shall be included on the face of the policy, the name and age of each insured; the name of the beneficiary of each insured, and after the name and age of each person insured, in figures, the amount which is payable to the payee in the policy in case of death, accident, or illness of such insured person, except where policy provides for Waiver of Premium only in event of total and permanent disability or death of the payee, regardless of what the maximum amount of said policy is, and if there is a provision in said policy for payment other than the full amount of said policy, such provision shall be clearly stated on the face of the policy, and this provision shall apply to all such Family Group Life, health and/or accident policies sold in this State. Added Acts 1943, 48th Leg., p. 639, ch. 364, § 1.

Approved and effective May 22, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "This law shall be cumulative of all laws and parts of laws not in conflict herewith, and all laws and parts

of laws in conflict herewith are hereby repealed."

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

Art. 4740. 4750 Deposits for benefit of insured

Any life insurance company now or which may hereafter be incorporated under the laws of this state may deposit with the Board of Insurance Commissioners for the common benefit of all the holders of its policies and annuity bonds, securities of the kinds in which, by the laws

of this state, it is permitted to invest or loan its capital, surplus, and/or reserves, equal to the legal reserve on all its outstanding policies in force, which securities shall be held by said Board of Insurance Commissioners in trust for the purpose and objects herein specified. The physical delivery of such securities to the Board of Insurance Commissioners shall be sufficient without being accompanied by a written transfer of any lien securing them. Any such company may deposit lawful money of the United States in lieu of the securities above referred to, or any portion thereof, and may also, for the purposes of such deposit, convey to said Board of Insurance Commissioners in trust the real estate in which any portion of its said reserve may be lawfully invested. In such case, the Board of Insurance Commissioners shall hold the title thereto in trust until other securities in lieu thereof shall be deposited with it, whereupon it shall reconvey the same to such company. Said Board of Insurance Commissioners may cause any such securities or real estate to be appraised and valued prior to their being deposited with, or conveyed to, it in trust as aforesaid, the reasonable expense of such appraisal or valuation to be paid by the company. Under the provisions of this Article, registered as well as unregistered United States Government securities may be deposited. As amended Acts 1943, 48th Leg., p. 206, ch. 125, § 1.

Approved April 12, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 4758. 4768 Retaliatory provisions; deposits

Mexican casualty companies insuring persons or property while in Mexico, deposit, see article 5012a.

Art. 4764a. Group life insurance; definitions

Section 1. The following forms of life insurance are hereby declared to be group life insurance within the meaning of this Act:

(1) Life insurance covering not less than twenty-five (25) employees written under a policy issued to the employer, the premium for which is to be paid by the employer or by the employer and employees jointly and insuring all of his employees, or all of any class or classes thereof determined by conditions pertaining to the employment, for amounts of insurance based upon some plan which will preclude individual selection, and for the benefit of persons other than the employer; provided, however, that when the premium is to be paid by the employer and employees jointly and the benefits of the policy are offered to all eligible employees, not less than seventy-five (75) per centum of such employees may be so insured.

Group life insurance policies may be issued conformably to the terms of Section 1 and Subsection 1 of this Act upon the lives of all employees, as employees of any independent school district, incorporated city, town or village, which has assumed control of the public school system within such municipality, as employer; such group life policies to be in conformity with Acts, 1931, Forty-second Legislature, Chapter 101, Page 172 et seq., as amended by Acts, 1941, Forty-seventh Legislature, Regular Session, House Bill No. 1061, and as amended by this Act. In the case of such school systems as employers the premiums upon such group life policies shall be paid by the employees and no part thereof shall be paid by said school district employers; but there is nothing in this Act to prohibit such school district employers from deducting the premiums on such group policies from employees' salaries and paying the premiums therefor with such deductions.

(2) Life insurance covering the members of any labor union who are actively engaged in the same occupation written under a policy issued to such labor union, which shall be deemed to be an employer and the members of which shall be deemed to be employees of such union within the meaning of this Act.

(3) Life insurance covering only the lives of all members of a group of persons numbering not less than fifty (50) at all times, who become borrowers from one financial institution, or who become purchasers of securities, merchandise, or other property from one vendor under agreement to repay the sum borrowed, or to pay the balance of the price of the securities, merchandise, or other property purchased, to the extent of their indebtedness to said financial institution or vendor, but not to exceed Ten Thousand Dollars (\$10,000) on any one life, written under a policy which may be issued upon the application of and made payable to the financial institution or vendor or other creditor to whom such vendor may have transferred title to the indebtedness as beneficiary, the premium on such policy to be payable by the financial institution, vendor, or other creditor. Provided, that group life insurance issued under this classification shall not include annuities or endowment insurance. The requirements set out in Subsection 4 of Section 2 of this Act shall not apply to this Subsection. As amended Acts 1943, 48th Leg., p. 604, ch. 349, § 1.

¹ This article.

Approved May 15, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943

declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Other provisions approved by Commissioner

Sec. 3. Any such policy may be issued or delivered in this State which in the opinion of the Life Insurance Commissioner contains provisions on any one or more of the several requirements set forth in Section 2 hereof more favorable to the employer or employee than by said Section required, and any such policy may contain any other provisions which meet the approval of the Life Insurance Commissioner, provided, such provisions are not in conflict with any of the provisions required by Section 2 hereof to be contained in the policy; provided, however, that any company may issue a policy promising a benefit less than the full benefit in case of the death of the insured by his own hand while sane or insane or by following stated hazardous occupations or in the event the death of the insured should result from aviation activities under the conditions specified in the policy to be approved by the Life Insurance Commissioner as provided in Chapter 3, Title 78 of the Revised Civil Statutes of the State of Texas of 1925.¹ As amended Acts 1943, 48th Leg., p. 602, ch. 347, § 1.

¹ Article 4716 et seq.

Approved May 15, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 4764b. Industrial life insurance; defined

Prohibited provisions

Sec. 5. No industrial life insurance policy delivered or issued for delivery in the State of Texas shall contain any provision which (a) limits the time within which any action at law or in equity may be commenced to less than two (2) years after the cause of action shall accrue; (b) except as otherwise provided herein, provides for any mode of settlement at maturity of less value than the amounts insured on the face of

the policy, plus dividend additions thereto, if any, less any indebtedness to the insurer on the policy, and less any premium that may, by the terms of the policy, be deducted, and provided also that this provision shall not prevent an additional accidental death benefit being limited so as not to be payable in event of death from certain causes of accidents; and further providing that any company may issue a policy promising a benefit less than the full benefit in case of the death of the insured by his own hand while sane or insane or by following stated hazardous occupations or in the event the death of the insured should result from aviation activities under the conditions specified in the policy to be approved by the Board of Insurance Commissioners as provided in Chapter 3, Title 78 of the Revised Civil Statutes of the State of Texas of 1925.¹ As amended Acts 1943, 48th Leg., p. 603, ch. 348, § 1.

Amendment of 1943 to section 5 was approved May 15, 1943 and effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

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; the cash deposits in regularly established National or State Banks or trust companies in this state on the basis of average monthly balances throughout the calendar year; that percentage of a life insurance company's investments in the bonds of the United States of America that its Texas reserves are of its total reserves; but this provision shall apply only to United States Government bonds purchased between December 8, 1941 and the termination of the war in which the United States is now engaged; 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 forty (40%) per cent more than 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 the State of Texas, and the policy or policies transferred to the company taking such mortgage or lien; 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. If any part of the value of such real estate is in buildings, such buildings shall be insured against fire and kept insured for at least fifty (50%) per cent of the value thereof in some company authorized to transact business in this state and the policy or policies shall be transferred to the company taking such mortgage or lien.

The term "Texas Securities", as used in this Chapter, shall also be held to include 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 earnings, 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 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 sole 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 (4,000) 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 1943, 48th Leg., p. 303, ch. 197, § 1.

1 12 U.S.C.A. § 641 et seq.

Filed without the Governor's signature,
April 30, 1943.

Effective 90 days after May 11, 1943, date
of adjournment.

Section 2 of the amendatory Act of 1943
declared an emergency but such emergency
clause was inoperative under Const. art. 3,
§ 39.

CHAPTER SEVEN—MUTUAL LIFE INSURANCE COMPANIES

Art. 4800. 4809 Incorporation

Conversion or reinsurance of certain as- operating under this chapter, see article
sociations into legal reserve companies 5068—3.

Art. 4802. 4810 Directors

The business of a mutual life insurance company shall be controlled and directed by a board of directors consisting of not less than five (5) members, who shall be elected annually as provided in this Chapter. The directors who are to serve until the first annual election shall be named in the charter, and they shall hold office until their successors shall be elected and qualified, or until they shall be removed for improper practices. The board of directors shall elect the officers of the company, which shall be a president, and such number of vice presidents as the by-laws may provide; a secretary, a treasurer, a medical director and such other officers as the by-laws may provide for; and shall fix the compensation of all such officers. The duties of all officers shall be prescribed by the by-laws. The by-laws governing the company until the date of its first annual meeting shall be adopted by the board of directors at their first meeting after the certificate of authority shall be issued authorizing the company to trans-

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

act the business of a mutual life insurance company. As amended Acts 1943, 48th Leg., p. 580, ch. 341, § 1.

Filed without Governor's signature May 17, 1943.

Effective May 17, 1943.

Section 8 of the amendatory Act of 1943 read as follows: "If any Section or portion of Section of this Act shall for any reason be declared invalid by a court of

competent jurisdiction such adjudication shall not affect the validity of any other Section or portion of Section of this Act."

Section 9 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 4808. Annual valuation of policies

The Board of Insurance Commissioners shall annually make valuations of all outstanding policies of mutual life insurance companies as of December 31st of each year, in accordance with the method of valuation specified in the policy contracts based upon the American Experience Table of Mortality and such rate of interest as may be specified in such policy contracts, assuming an average risk exposure of six (6) months on all new policies issued within each calendar year. As amended Acts 1943, 48th Leg., p. 580, ch. 341, § 2.

Filed without Governor's signature May 17, 1943.

Effective May 17, 1943.

Art. 4809. Net premiums; surplus and contingency reserve requirements

The net premiums upon all policies issued by any such company shall be computed in accordance with the provisions of the preceding Article; no portion of such net premiums collected upon any such policy shall ever be used or applied for the payment of any expenses of the company of any kind or character, or for any other purpose than the payment of death losses, surrender values, or lawful dividends to policyholders, loans on policies, or for the purpose of such investments of the company as are prescribed in the laws of this state, provided however, that whenever the surplus of a mutual life insurance company, whether earned or contributed, and the contingency reserve, as provided in Article 4810 of this Chapter, when taken together, are at least equal to One Hundred Thousand (\$100,000.00) Dollars, such company shall no longer be subject to the restrictions imposed by this Article, but shall thereafter, as long as such minimum surplus and contingency reserve is maintained, be entitled to use the net premiums as above defined, for all purposes; provided that during the time such net premiums are used for any purpose, other than the payment of death losses, surrender values, loans on policies or for the purpose of such investments of the company as are prescribed by the laws of this state, dividends to policyholders will be paid from the divisible surplus of the company in accordance with Article 4811. Provided that as to Mutual Assessment Associations organized and operating under the laws of this state at the effective date of this Act, which convert to a mutual legal reserve basis and qualify under this Chapter,¹ the surplus and contingency reserve requirement shall be as follows:

A minimum of Five Thousand (\$5,000.00) Dollars for each One Million (\$1,000,000.00) Dollars or less of insurance in force and an additional Two Thousand Five Hundred (\$2,500.00) Dollars for each additional One Million (\$1,000,000.00) Dollars of insurance in force, with a maximum of Fifty Thousand (\$50,000.00) Dollars;

And further provided that such converted Mutual Assessment Associations shall within five (5) years from the date of conversion bring the maximum surplus and contingency reserve to Five Thousand

(\$5,000.00) Dollars for each One Million (\$1,000,000.00) Dollars of insurance in force, with a maximum surplus and contingency reserve requirement in all cases of One Hundred Thousand (\$100,000.00) Dollars, such increase to be at the rate of at least twenty (20%) per cent each year from such conversion date, provided, however, that the Board of Insurance Commissioners shall have the discretion to extend the time for such increase.

Providing further that nothing in this Act or in the provisions of Chapter 7, Title 78, Revised Civil Statutes of 1925, as amended,¹ or Chapter 3, Title 78, Revised Civil Statutes of 1925, as amended,² shall ever be construed to mean that any of the associations or other similar concerns, by whatsoever name or class designated, whether specifically named herein or not, shall be required by the Board of Insurance Commissioners to make the change herein provided for unless they voluntarily decide to do so, and that this Act is purely permissive and if such associations do not so voluntarily decide to come under this Act, or laws amended by it, then this bill shall not in any way apply to such associations.

The provision of this Act that dividends to policy-holders shall be paid in accordance with Article 4811 may be waived until the maximum surplus and contingency reserve requirement has been met by converted Mutual Assessment Associations. As amended Acts 1943, 48th Leg., p. 580, ch. 341, § 3.

¹ Articles 4800-4819.

² Articles 4716-4764b.

Filed without Governor's signature May 17, 1943.

Effective May 17, 1943.

Art. 4811. Surplus and dividends

Each such company shall make an annual accounting and apportionment of divisible surplus to each policyholder, beginning not later than the end of the second policy year on all policies issued; and each such policyholder shall be entitled to and credited with or paid, such portion of the entire divisible surplus as may be equitably apportioned to his policy. Upon the 31st day of December of each year, or as soon thereafter as may be practicable, each such company shall truly ascertain the surplus earned by it during such year; and after setting aside from such surplus the contingency reserve provided for in this Chapter,¹ it shall apportion to each of its policies upon which all premiums due and payable for at least two (2) years have been paid, an equitable proportion of the remainder of such surplus, and shall immediately submit a detailed report of such apportionment under oath of its president or secretary to the Board of Insurance Commissioners. If such Board shall find such apportionment to be equitable and just to the policyholders and in accordance with the provisions of this Chapter, it shall approve the same, and it shall become effective. If it shall not approve such apportionment, it shall make such changes therein as it shall deem equitable and just and necessary to make the same comply with the provisions of this Chapter, and shall certify such changes to such company, whereupon such apportionment as changed by such Board shall become effective. Each dividend declared as aforesaid shall be paid in cash, or in the equivalent of its cash value in any option stated in the policy and selected by the policyholder, notice of which selection by the policyholder shall be given to the company in writing. As amended Acts 1943, 48th Leg., p. 580, ch. 341, § 4.

¹ Articles 4800-4819.

Filed without Governor's signature May 17, 1943.

Effective May 17, 1943.

Waiver of dividend requirements until surplus and contingency reserve requirements have been met by converted associations, see article 4809.

Art. 4813. Repealed. Acts 1943, 48th Leg., p. 580, ch. 341, § 5. Eff. May 17, 1943

Section 5 of the Act of 1943 read as follows: "That Article 4813 of the Revised Civil Statutes of Texas, 1925, be and the same is hereby repealed, both as to ex-

isting insurance companies and those which may be formed hereafter under this amended Chapter [arts. 4800-4819]."

Art. 4816. Advances to company

Any officer or director of a mutual life insurance company or any person so authorized in Article 4871a (Acts 1931, 42nd Legislature, page 200, Chapter 118) may advance to such company any sum of money for the purpose of promoting or conserving its business, or to enable it to comply with any requirement of the law; and such money, together with such interest thereon as may have been agreed upon, not exceeding ten (10%) per cent per annum, shall be payable only out of the surplus remaining after providing for all reserves and other liabilities, and shall not otherwise be a liability or claim against the company or any of its assets. No commission or promotion expenses shall be paid in connection with the advance of any such money to the company, and the amount of such advance shall be reported in each annual statement. As amended Acts 1943, 48th Leg., p. 580, ch. 341, § 6.

Filed without Governor's signature
May 17, 1943.

Effective May 17, 1943.

Art. 4817. Liabilities; receivership; reinsurance may be ordered

At any time when the liabilities of any such company, computing its reserve liability upon the American Experience Table of Mortality and the interest rate specified in its policy contracts, shall be in excess of its assets, the company shall cease the issuance of new policies until the impairment of its reserve shall be made good. Whenever the liabilities of any such company, computing its reserve liability upon the American Experience Table of Mortality and three and one-half (3 ½%) per cent interest per annum, exceeds its assets, the Board of Insurance Commissioners may request the Attorney General to file suit in the name of the state in the district court of the county in which such company is located for the appointment of a receiver to terminate and liquidate the affairs of the company, and such action may be maintained. In any such action, such district court, or judge thereof, in vacation, shall have the power, if in his opinion the interests of the policyholders of the company require it, to enter an order for the reinsurance of all outstanding risks of such company in some other life insurance company authorized to do business in this state upon such terms and conditions as may be approved by the Board of Insurance Commissioners, and by such court, or the judge thereof, in vacation, and such court or judge may for that purpose direct the conveyance of the entire assets of any such company, or any portion thereof, to such reinsuring company in consideration of such reinsurance. As amended Acts 1943, 48th Leg., p. 580, ch. 341, § 7.

Filed without Governor's signature May
17, 1943.

Effective May 17, 1943.

CHAPTER NINE A—LOCAL MUTUAL AID ASSOCIATIONS

Art. 4875a-1. Scope of Act

Conversion or reinsurance into legal reserve companies, see article 5068-3.

CHAPTER TEN—STATE INSURANCE COMMISSION

Art. 4912. Hearing before Commission

Any policyholder, insurance company or association shall have the right to a hearing before the Commission on any grievance occasioned by the promulgation of any classification, rate or policy form by the Commission; such hearing to be held in conformity with rules to be prescribed by the Commission. No hearing shall suspend the operation of any classification, rate or policy form unless the Commission shall so order. Provided that any party aggrieved shall have the right to apply to any Court of competent jurisdiction to obtain redress. As amended Acts 1943, 48th Leg., p. 614, ch. 355, § 1.

Approved and effective May 15, 1943. the Act should take effect from and after its passage.
 Section 2 of the amendatory Act of 1943 declared an emergency and provided that

CHAPTER ELEVEN—FIRE AND MARINE COMPANIES

Art. 4932. 4875, 3075 Re-insurance

1. No fire, fire and marine, marine or inland insurance company doing business in this state shall expose itself to any one risk, except when insuring cotton in bales, and grain, to an amount exceeding ten (10%) per cent of its paid up capital stock and surplus, in the case of companies incorporated under the laws of the United States or of any state of the United States, unless the excess shall be insured by such company in some other solvent insurance company legally authorized to do business in this state. In the case of companies incorporated under some other jurisdiction than the United States or a state of the United States, the maximum net retention under this Article shall not exceed ten (10%) per cent of the deposit with the statutory officer in the state through which the company gained admittance to the United States, plus ten (10%) per cent of the other surplus to policyholders of the company's United States branch; and the re-insurance in all such cases shall be with some other solvent insurance company legally authorized to do such business in this state. As amended Acts 1943, 48th Leg., p. 584, ch. 342, § 1.

Approved May 15, 1943.
 Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 read as follows: "If any Section or portion of Section of this Act shall for any reason be declared invalid by a court of

competent jurisdiction, such adjudication shall not affect the validity of any other Section or portion of Section of this Act."

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

CHAPTER EIGHTEEN—GENERAL CASUALTY COMPANIES

Art.

5012a. Mexican casualty insurance companies; policies in force while insured persons or property are in Mexico; requirements for issuance in state; deposit [New].

Art. 5012a. Mexican casualty insurance companies; policies in force while insured persons or property are in Mexico; requirements for issuance in state; deposit

Section 1. Any insurance carrier lawfully organized under the laws of the Republic of Mexico, or under the laws of any state thereof, and duly authorized by such laws and by its charter or articles of association and by current license of the appropriate insurance regulatory authority of such Republic or any state thereof to underwrite risks of the kinds and in the circumstances hereinafter mentioned, may issue in the State of Texas, under license of the Board of Insurance Commissioners of Texas, policies of insurance affording any and all kinds of automobile coverage, accident insurance and/or other casualty coverage, upon persons and/or personal property, to be in force only while such persons and/or personal property shall be physically within the boundaries of the Republic of Mexico, by complying with the following requirements:

(a) Such insurance carrier shall file with the Board of Insurance Commissioners of the State of Texas (called Board) a written application for certificate to do business in this state, accompanied by a correct English translation of its charter and by-laws, duly certified by two of its principal officers and by the insurance regulatory officials under whose supervision it operates in the Republic of Mexico, and of all of its policy forms, application forms, claim forms, and other forms of every nature which it uses or expects to use in underwriting the coverage hereby authorized to be written in Texas, all of which shall be subject to the approval of such Board.

(b) Before admission, and annually thereafter, such carrier shall also file with such Board a photostatic copy of its current license or licenses to operate in the Republic of Mexico, and shall file a copy of its latest financial reports or statements, and of the latest examination reports of its affairs and financial condition by the insurance regulatory authorities under which it operates in Mexico.

(c) Such carrier shall deposit with the Treasurer of the State of Texas at least Twenty-five Thousand (\$25,000.00) Dollars in lawful money of the United States or in securities eligible for other casualty insurers licensed in Texas and approved by such Board, which deposit shall be liable for all lawful claims and final judgments against such insurance carrier, including taxes due the State of Texas, and policy claims and other debts and obligations incurred in the course of operations hereunder as provided herein, and such deposit shall be kept replenished from time to time with like cash or approved securities to maintain a minimum total deposit of Twenty-five Thousand (\$25,000.00) Dollars. Such deposit or the unincumbered balance thereof shall be returned to such carrier with approval of such Board upon withdrawing from the business authorized hereby and upon a showing to such Board that all of its policies written in Texas hereunder have expired or have been cancelled and that all of its claims and obligations upon policies written in this state which would constitute lawful charges against such deposit have been satisfied.

(d) Such carrier shall file with the Board a power of attorney, in a form designated by the Board, designating an agent or attorney-in-fact upon whom legal process may be served within this state, which appointment shall continue until revoked and a successor duly appointed by the carrier, and further authorizing service of legal process upon the Chairman of the Board of Insurance Commissioners of Texas and his successors in office as alternate attorney-in-fact for such carrier upon whom service of process may be had in event such process cannot be served upon the designated agent or attorney-in-fact for service as herein provided, upon suits for any alleged liability incurred in operations of the carrier pursuant to this Act, with like effect as if such process had been served personally upon the appropriate persons, representatives or officials of such carrier within its home jurisdiction in the Republic of Mexico. In event process shall be served upon the Chairman of the Board, as provided above, he shall immediately give written notice thereof to such carrier and shall forward such process by registered mail, postage prepaid, and properly addressed to the president of such carrier at its home office as furnished to the Board; and no judgment by default shall be taken in any such cause until after the expiration of forty (40) days after said process and notice shall have been received at the home office of such carrier. Until rebutted, the presumption shall obtain that such notice and process was received at the home office of the carrier on the fifth (5th) day after being deposited in the mail at Austin, Texas, as herein provided. The State Treasurer, upon the approval of the Board, shall pay from the deposit required herein any unsatisfied final judgment obtained against such carrier in any court of competent jurisdiction in Texas based upon such substituted service as authorized herein.

(e) Such carrier shall pay the State of Texas annually a premium or occupation tax upon its gross premium income from policies issued in Texas according to the reports made to the Board each year, and shall pay such other fees, charges and taxes upon the same basis as like insurers licensed to do the same kinds of business in the State of Texas are required by law to pay; and shall make the same reports as such other licensed carriers, but in such adapted forms as may be prescribed by such Board for such purposes.

(f) The coverage hereby authorized shall be underwritten only at rates prescribed or approved from time to time by such Board.

(g) Such Board shall have the authority to examine at any or all times, at the expense of such carrier, the affairs and condition and all books and records of such carrier for the purpose of ascertaining its financial condition and solvency, and its compliance with the applicable laws of this state and of its home jurisdiction.

(h) Such carrier shall file in English a document executed by its officials expressly accepting the terms of this Act and agreeing that such Board may at any time in its lawful discretion revoke, suspend or refuse to grant or renew the license of such Board to such carrier to conduct in Texas the business hereby authorized, upon a determination by such Board that it is insolvent or in dangerous financial condition, or that it has violated any applicable law of this state or of its home jurisdiction.

(i) It shall underwrite business in Texas only through its resident Texas agents thereunto duly authorized by it in writing and duly licensed by such Board under the provisions of Article 5062b (Acts 1941, 47th Legislature, Page 374, Chapter 212), as the same now exists or as it may be amended hereafter, and the license issued to such Texas agents shall specially authorize them to write for such foreign carriers complying herewith the risks authorized hereby.

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

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed only to the extent of such conflict.

Sec. 3. If any Section or portion of Section of this Act shall for any reason be declared invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any other Section or portion of Section of this Act. Acts 1943, 48th Leg., p. 436, ch. 295.

Approved and effective May 10, 1943.

Section 4 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act permitting insurance carriers organized and licensed under the laws of the Republic of Mexico, or any state thereof,

to underwrite in the State of Texas automobile coverage, accident and other insurance risks upon persons and personal property while in the Republic of Mexico; prescribing the conditions to be complied with to enjoy such privileges; repealing all laws and parts of laws to the extent of conflict herewith; providing for severability; and declaring an emergency. Acts 1943, 48th Leg., p. 436, ch. 295.

CHAPTER NINETEEN—LLOYD'S PLAN

Art. 5017. Assets

No attorney shall be licensed for the underwriters at a Lloyd's under this Chapter unless the net assets contributed to the attorney, a committee of underwriters, trustees or other officers as provided for in the articles of agreement, shall be at least Sixty Thousand Dollars (\$60,000) in cash or securities that are eligible for investment of the capital stock of stock insurance companies transacting the same sort of business; nor shall any attorney be licensed for any underwriters at a Lloyd's to transact more than one kind of business as defined in Article 5015 of this Chapter, unless the net assets, as they are herein defined, belonging to such underwriters at Lloyd's, shall be as much as Ten Thousand Dollars (\$10,000) additional for each additional kind of insurance designated in the application for license; and such additional amounts to be invested, if at all, in like securities as required for the minimum sum mentioned. As amended Acts 1943, 48th Leg., p. 605, ch. 350, § 1.

Approved and effective May 15, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "If any section or portion of section of this Act shall for any reason be declared invalid by a Court of competent jurisdiction such adjudication shall not affect the validity of any other section or portion of section of this Act."

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

Approved May 15, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 read as follows: "If any section or portion of section of this Act shall for any reason be declared invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any other section or portion of section of this Act."

Art. 5017d. Investments

The assets of underwriters at a Lloyd's to the extent of the minimum required under the provisions of Article 5017, as amended, of this Chapter shall be cash or shall be invested in such securities as are eligible for investment of the capital stock of stock insurance companies transacting the same sort of business, and the other assets of underwriters shall be invested, if at all, in such property or securities as the funds of a stock insurance company doing the same sort of business may be invested in, except real estate, and except that only the surplus of a Lloyd's may be invested in the securities eligible for investment of surplus of such similar stock insurance company.

Provided, however, that no Lloyd's already organized and doing business under license from the Board of Insurance Commissioners of this State shall be required to conform to this Article as hereby amend-

ed except as to securities hereafter acquired, whether in substitution for securities now held or from additional, successor, or substituted underwriters. As amended Acts 1943, 48th Leg., p. 606, ch. 351, § 1.

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

CHAPTER TWENTY-TWO—PROVISIONS APPLICABLE TO CERTAIN SPECIFIED COMPANIES

<p>Art. 5068—3. Conversion or reinsurance of certain associations into legal reserve companies operating under chapter 7; reinsurance by</p>	<p>Art.</p>	<p>companies operating under chapter 3. 5068—4. Mortuary or relief funds; taxes on income.</p>
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Art. 5068—3. Conversion or reinsurance of certain associations into legal reserve companies operating under chapter 7; reinsurance by companies operating under chapter 3

Section 1. (a) Any domestic local mutual aid association; statewide life, or life, health and accident association; mutual assessment life, health and accident association; burial association; or any other similar concern, by whatsoever name or class designated, whether specifically named herein or not, organized and operating under the laws of the State of Texas, may convert or reinsure itself into a legal reserve insurance company operating under the provisions of Chapter 7, Title 78, Revised Civil Statutes of Texas, 1925, as amended,¹ or be reinsured by any legal reserve insurance company operating under the provisions of Chapter 3, Title 78 of the Revised Civil Statutes of Texas, 1925, as amended,² by conforming to the provisions of this Act. When it shall be determined by a majority vote of the Board of Directors of any such association to submit the proposed change to the members of the association, said board of directors shall prepare in detail plans for making such change, and such plans shall be submitted to the Board of Insurance Commissioners. Upon receipt of such Board's written approval of such plans, or of such plans amended to meet the requirements of such Board in accordance with the provisions of said chapters, said board of directors or such officer of such association as may be authorized by its by-laws to call a meeting of its members, shall mail to each member a copy of the proposed plans and shall enclose with each copy of such plans a notice of a meeting of said members to be held not earlier than fifteen (15) days after the date of mailing of such notice.

(b) Such meeting shall be held for the purpose of ratification or rejection of the proposed change, and the members may vote in person, by proxy, or by mail; provided that all votes shall be cast by ballot, and the Chairman of the meeting shall supervise and direct the method of procedure of said meeting and appoint an adequate number of inspectors to conduct the voting at said meeting, who shall have power to determine all questions concerning the verification of the ballots, the ascertainment of the validity thereof, the qualifications of the voters, and the canvass of the vote, and who shall certify to the Chairman of the Board of Insurance Commissioners and to the Association the result thereof, under such rules and regulations as shall be prescribed by the Board of Insurance Commissioners. A majority vote cast shall be sufficient for ratification of said change.

(c) When such association shall have complied with the provisions of this Act and the other laws of this State regulating the incorpora-

tion of such mutual legal reserve insurance companies, and shall have received from the Board of Insurance Commissioners its charter and certificate of authority to transact business as a mutual insurance company, its reorganization and conversion shall be complete. Such reorganized and converted or reinsured corporation shall be deemed in law to have all the rights, privileges, powers and authority of any other corporation organized in accordance with the provisions of said chapters. The new corporation shall be deemed in law to be a continuation of the business of the former association and shall succeed to and become invested with all and singular the rights and privileges not inconsistent with the provisions of said chapters, and all property, real, personal or mixed of the former association, and all debts due on any account, and all other things and choses in action theretofore belonging to such association, and all property rights, privileges, franchises, and all other interest, shall thereafter be as effectually the property of such organized and converted corporation as if they were the property of the former association, and the title to any real estate by deed or otherwise vested in the former association shall forthwith vest in such organized converted corporation and the title thereto shall not in any way be impaired by reason of such change or reincorporation. The standing of all claims under the former association shall be preserved unimpaired under the new corporation, and all debts, liabilities and duties of the former association shall thenceforth attach to the reorganized corporation and may be enforced against it to the same extent as if said debts and liabilities had been incurred or contracted by the new corporation, except that the liabilities created under the terms of policies or certificates outstanding at the date of conversion or reorganization may be altered in accordance with the provisions of said plans approved by the Board of Insurance Commissioners.

Sec. 2. The sums of any mortuary funds belonging to such association shall thereafter be effectually the property of such organized and converted corporation or corporation reinsuring the membership of such association, but may be disbursed for payment of valid claims outstanding and arising thereafter from policies issued by the legal reserve company to the members of the assessment association under the approved agreement; to set up the legal reserve on new policies issued by the legal reserve company to the members of the assessment association under said agreement; and to pay their actuarial portion of such mortuary fund to members of such association who refuse to accept the new policies offered them, and who make request therefor within sixty (60) days from the date of conversion or reinsurance.

The effective date of the legal reserve policies may be the effective date of the reinsurance contract. On conversion ten (10) per cent of the Mortuary Fund credit allocated to each policy may be credited to the Contingency Reserve Fund of the Company for the benefit of the policyholders, and the balance of the Mortuary credit may be applied in either of the following ways:

- (a) As a reserve credit to permit the legal reserve policy issued to be dated back as far as the reserve credit will permit; or
- (b) As an annuity to reduce the required premium either for a given term or for the whole of life.
- (c) No change shall ever be made until same shall have been approved by the Board of Insurance Commissioners.

Sec. 3. Providing further that nothing in this Act or in the provisions of Chapter 7, Title 78, Revised Civil Statutes of 1925, as amended,¹ or Chapter 3, Title 78, Revised Civil Statutes of 1925, as amended,² shall ever be construed to mean that any of the associations or other similar

concerns, by whatsoever name or class designated, whether specifically named herein or not, shall be required by the Board of Insurance Commissioners to make the change herein provided for unless they voluntarily decide to do so, and that this Act is purely permissive and if such associations do not so voluntarily decide to come under this Act, or laws amended by it, then this bill shall not in any way apply to such associations.

Sec. 4. If any section or portion of section of this Act shall for any reason be declared invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any other section or portion of this Act. Acts 1943, 48th Leg., p. 608, ch. 353.

1 Articles 4800-4819.

2 Articles 4716-4764b.

Approved and effective May 15, 1943.

Section 5 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that domestic local mutual aid associations, statewide life, or life, health and accident associations, mutual assessment life, health and accident associations, burial associations, and other similar concerns, may convert into, or be reinsured by legal reserve insurance companies operating under the provisions of

Chapter 7, Title 78 of the Revised Civil Statutes of Texas, 1925, as amended, or be reinsured by any legal reserve insurance company operating under the provisions of Chapter 3, Title 78, Revised Civil Statutes of Texas, 1925, as amended; and prescribing the regulations, conditions and procedure under which such transformation or reinsurance may be accomplished, and the effects thereof; providing for disposition of mortuary fund of such associations; providing severability; and declaring an emergency. Acts 1943, 48th Leg., p. 608, ch. 353.

Art. 5068—4. Mortuary or relief funds; taxes on income

Any company or association operating under the provisions of Senate Bill No. 135, Acts of the Regular Session of the 46th Legislature, Chapter 6, page 401,¹ may pay from the mortuary or relief funds by whatever name it may be called any taxes that may be assessed against or required to be paid by the company or association because of income to such funds. Acts 1943, 48th Leg., p. 696, ch. 386, § 1.

1 Article 5068—1.

Filed without the Governor's signature, May 18, 1943.

Effective May 18, 1943.

Section 2 of the Act of 1943 repealed 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 provide that insurance com-

panies and associations operating under Senate Bill No. 135, Acts of the Regular Session of the 46th Legislature may pay from the mortuary funds any taxes assessed against them because of income to such funds; repealing all laws and parts of laws in conflict herewith, and declaring an emergency. Acts 1943, 48th Leg., p. 696, ch. 386.

TITLE 79—INTEREST

Art. 5073. 4982 Action on usurious rate

Injunction against charging or collecting usurious interest, see article 4646b.

TITLE 82—JUVENILES

Art. 5142b. Juvenile officers in counties of 320,000 and not less than 220,000

Chief probation officer and assistants; appointment

Sec. 3. There shall be one Chief Probation Officer, and such number of Assistants not exceeding ten (10) as may be authorized by the Juvenile Board. Said Chief Probation Officer shall be appointed by the Juvenile Board and said Officer shall appoint said Assistants, subject to confirmation by the Juvenile Board; provided such power of appointment and confirmation shall not become effective until the expiration of the current terms of the present incumbents of such offices. As amended Acts 1943, 48th Leg., p. 450, ch. 299, § 1.

Amendment of 1943 to section 3 was approved May 10, 1943 and effective 90 days after May 11, 1943, date of adjournment.

TITLE 83—LABOR

CHAPTER TWO—LABOR ORGANIZATIONS

Art.

5154a. Labor unions, regulation of [New].

Art. 5154a. Labor unions, regulation of—Preamble of public policy

Section 1. Because of the activities of labor unions affecting the economic conditions of the country and the State, entering as they do into practically every business and industrial enterprise, it is the sense of the Legislature that such organizations affect the public interest and are charged with a public use. The working man, unionist or non-unionist, must be protected. The right to work is the right to live.

It is here now declared to be the policy of the State, in the exercise of its sovereign constitutional police power, to regulate the activities and affairs of labor unions, their officers, agents, organizers, and other representatives, in the manner, and to the extent hereafter set forth.

Definitions

Sec. 2. The words and terms hereafter defined, as used in this Act, shall have the meaning herein stated, except where the context of the Act shows that the same are used in some other sense or meaning; (a) the words "Secretary of State" shall mean the Secretary of State of the State of Texas; (b) "labor union" shall mean every association, group, union, lodge, local, branch or subordinate organization of any union of working men, incorporated or unincorporated, organized and existing for the purpose of protecting themselves, and improving their working conditions, wages, or employment relationships in any manner, but shall not include associations or organizations not commonly regarded as labor unions; (c) "labor organizer" shall mean any person who for a pecuniary or financial consideration solicits memberships in a labor union or members for a labor union; (d) "enforcement officer" means the Attorney General, District Attorney and the County Attorney; (e) "working agreement" means a collective bargaining contract with an employer for union labor employees in any business or industry, and shall include any renewal, extension, supplementation or change whatever in respect to any such agreement.

Reports

Sec. 3. It shall be the duty of every labor union to file with the Secretary of State, annually, and not later than the first day of February, except as hereafter provided, a report containing, (a) the name and address of such union; (b) the name and address of its local officers; (c) the name and address of the State, national, and international organization or union, if any, with which it is affiliated; (d) a complete financial statement of all fees, dues, fines, or assessments levied or received, together with an itemized list of all expenditures, with names of recipients and purposes therefor, covering the preceding twelve (12) months; and, (e) a complete statement of all property owned by the labor union, including any moneys on hand or accredited to such union, which said report shall be duly verified by the oath of the president, secretary, or some other regularly selected and acting officer of the union acquainted with the facts therein stated. Provided, however, that any union which closes its books at a date not convenient to file not later than the first of February may file such reports once each year as provided, and the Secre-

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

tary of State shall set the time for such filing at a time convenient to the union. Each such labor union shall file with its first such report, duly attested copies of its constitution, or other organization papers and records, and shall thereafter report any changes or amendments to such constitution or organization papers and records within twenty (20) days after such changes are made.

Such reports shall be available only to the Secretary of State, the Commissioner of Labor Statistics, and the Attorney General but shall also be open to grand juries and judicial and quasi-judicial inquiries in legal proceedings.

Officers

Sec. 4. All officers, agents, organizers, and representatives of such labor union shall be elected by majority vote of the members present and participating; provided, however, that labor unions, if they so desire, may require more than a majority vote for election of any officer, agent, organizer or representative, and may take any such vote of the entire membership by mailed ballots. Such election shall be held at least once each year, and the determination taken by secret ballot, of which election the membership shall be given at least seven (7) days' notice by written or printed notice mailed to the member's last known address, or by posting notice of such election in a place public to the membership, or by announcement at a regular stated meeting of the union, whichever is most convenient to the union. The result of such election when held shall be ascertained and declared by the president and the secretary at the time in the presence of the members or delegates participating.

Provided, the requirement for annual elections herein made, or the methods of holding same, shall not apply to any labor union that for four (4) years prior to the effective date of the law shall have held its elections for officers, delegates and the like representatives less frequently than annually but which have held such elections either every three (3) years or every four (4) years under their constitution, bylaws, or other organization rules, and which unions have during the last ten (10) years charged not more than Ten Dollars (\$10) initiation fee to members.

Aliens or convicts as officers

Sec. 4a. It shall be unlawful for any alien or any person convicted of a felony charge to serve as an officer or official of a labor union or as a labor organizer as defined in this Act. This Section shall not apply to a person who may have been convicted of a felony and whose rights of citizenship shall have been fully restored.

Political contributions prohibited

Sec. 4b. It shall be unlawful for any labor union to make any financial contribution to any political party or to any persons running for political office as a part of the campaign expenses of such individual.

Organizers

Sec. 5. All labor union organizers operating in the State of Texas shall be required to file with the Secretary of State, before soliciting any members for his organization, a written request by United States mail, or shall apply in person for an organizer's card, stating (a) his name in full; (b) his labor union affiliations, if any; (c) describing his credentials and attaching thereto a copy thereof, which application shall be signed by him. Upon such applications being filed, the Secretary of State shall issue to the applicant a card on which shall appear the following: (1) the applicant's name; (2) his union affiliation; (3) a space for his personal signature; (4) a designation, "labor organizer";

and, (5) the signature of the Secretary of State, dated and attested by his seal of office. Such organizer shall at all times, when soliciting members, carry such card, and shall exhibit the same when requested to do so by a person being so solicited for membership.

Working agreements

Sec. 6. All labor unions are hereby required to forward to the Secretary of State a copy of all existing working agreements with employers under which that organization is operating, within twenty (20) days after the execution of such working agreements, but only if such agreements contain a clause, or as a part of such agreement, which provides that the dues or any other collections for the benefit of the labor union are deducted from the worker's check or salary by the employer. Such working agreements shall be available only to the Secretary of State, the Commissioner of Labor Statistics, and the Attorney General, but shall also be open to grand juries, judicial and quasi-judicial inquiries. This shall not in anywise be construed to vitiate the Statute of Frauds.

Fees, dues, fines and assessments

Sec. 7. It shall be unlawful for any labor union, its officers, agent or any member to make any charge or exaction, or to receive any moneys for initiation fees, dues, fines, assessments, or other pecuniary exactions, which will create a fund in excess of the reasonable requirements of such union, in carrying out its lawful purpose or activities, if such fees, dues, fines, assessments, or other pecuniary exactions create, or will create, an undue hardship on the applicant for initiation to the union, or upon the union members. Nothing in this Section shall be deemed or construed to prevent the collection by a labor union of dues or assessments for purposes which are beneficial to the members of the union according to the established practice, and/or to maintain funds or make investments of funds for such beneficial purposes. Neither shall this Section be construed to prevent dues, collections or other assessments for old age benefits, death and burial benefits, hospitalization, unemployment, health and accident, retirement or other forms of mutual insurance, for legislative representation, grievance committee, or for gifts, floral offerings, or other charitable purposes, or any other legitimate purposes when the union engages in or decides to engage in such a field or practice; provided that the members contributing share or can reasonably expect to share in the benefits for which they are assessed; neither shall this Section be construed to prevent assessments, dues, or other collections, except initiation fees, to be placed in the funds or as a part of the funds of the union for the use by the union in paying its members while such members are on a strike; provided such funds shall remain under control of the labor union members. This Section shall be liberally construed, however, to prevent excessive initiation fees.

Advance fees

Sec. 8. It shall be unlawful for any labor organizer, union official or officer, or member of a labor union, or their agents, to collect any fees, dues, or sum of money whatsoever, in respect to membership in a labor union, or for the privilege to work or as a permit to work, from any person, without giving such person at that time a receipt therefor signed by such labor organizer, union official or officer, or member of the labor union, or their agent, reciting that such sum of money so received is to be delivered to the labor union, and be held intact until said person has been duly elected, and has become a bona fide voting member of said labor union. Provided that it shall be un-

lawful for any labor organizer, union official or officer, or member of a labor union, or their agents to collect any fee for the privilege to work or as a permit to work and no charge shall ever be made nor shall any fee ever be collected for the privilege to work in this State. Provided, however, this shall not prevent the collection of reasonable initiation fees as provided in this Act. Upon the payment in full by an applicant for membership in a labor union of any and all initiation fees or dues regularly assessed by such union, such labor union shall (a) elect such applicant to membership, or (b) shall forthwith return in full said money thus paid by the applicant. Upon such election, however, such advance fees thus paid may be applied by the labor union to the purposes and uses for which same were advanced. All unions, its members, officers, or agents, shall collect all fees in good faith, and no union shall elect a person to membership merely for the purpose of obtaining his initiation fee. Neither shall any labor union engage in the practice of collecting initiation fees from members and proceeding thereafter to discharge, suspend or drop such member, or cause his employer to discharge such employee, without reasonable and just cause. If any labor union shall engage in such practice, it shall be guilty of a violation of this Act, and shall be subject to the civil penalties herein prescribed. Nothing hereinabove stated shall be construed to prevent a closed shop contract or other type of bargaining agreement or to limit the bargaining power of a labor union.

Collecting fees for privilege to work forbidden

Sec. 8a. It shall be unlawful for any labor union, any labor organizer, any officer, any agent or representative or any member of any labor union to collect, receive or demand, directly or indirectly, any fee, assessment, or sum of money whatsoever, as a work permit or as a condition for the privilege to work from any person not a member of the union; provided, however, this shall not prevent the collection of initiation fees as above stated.

Books of accounts

Sec. 9. It shall be the duty of any and all labor unions in this State to keep accurate books of accounts itemizing all receipts from whatsoever source and expenditures for whatsoever purpose, stating such sources and purposes. Any member of such labor union shall be entitled at all reasonable times to inspect the books, records and accounts of such labor union, and any enforcement officer shall be entitled upon demand, subject to the approval of the Attorney General at all reasonable times, to inspect such books, records, and accounts of such labor union. Such books, records, and accounts shall also be open to grand juries and judicial and quasi judicial inquiries in legal proceedings.

Members' rights

Sec. 10. It shall be unlawful for any labor union to refuse to give any person desiring membership therein a reasonable time, after obtaining the promise of employment, within which to decide whether or not he desires to become a member of such labor organization, as a condition to such person's employment by the employer. It shall also be unlawful for any labor union to expel any member thereof except for good cause, and upon a fair and public hearing by and within the organization, after due notice and an opportunity to be heard on specific charges preferred. Any Court of competent jurisdiction upon his petition therefor, shall order reinstatement of any member of the labor organization who shall be expelled without good cause.

Members in armed forces

Sec. 10a. Any employee who is a member of any union, who, because of services with the armed forces of the United States, has been unable to pay any dues, assessments, or sums levied by any union, shall not hereafter be required to make such back payments as a condition to reinstatement in good standing as a member of any union to which he belonged.

Penalties

Sec. 11. If any labor union violates any provision of this Act, it shall be penalized civilly in a sum not exceeding One Thousand Dollars (\$1,000) for each such violation, the sum recovered as a penalty in a Court of competent jurisdiction, in the name of the State, acting through an enforcement officer herein authorized. Any officer of a labor union and any labor organizer who violates any provision of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof in a Court of competent jurisdiction, shall be punished by a fine not to exceed Five Hundred Dollars (\$500) or by confinement in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

Enforcement by civil procedure

Sec. 12. The District Courts of this State and the Judges thereof shall have full power, authority and jurisdiction, upon the application of the State of Texas, acting through an enforcement officer herein authorized, to issue any and all proper restraining orders, temporary or permanent injunctions, and any other and further writs or processes appropriate to carry out and enforce the provisions of this Act. Such proceedings shall be instituted, prosecuted, tried and heard as other civil proceedings of like nature in said Courts.

Enforcement officer

Sec. 13. It is hereby made the duty of the Attorney General and the District Attorneys and County Attorneys of this State, within their respective jurisdictions, to prosecute any and all criminal proceedings and to institute and maintain any and all civil proceedings herein authorized for the enforcement of this Act.

Liberal construction required

Sec. 14. The provisions of this Act are to be liberally construed so as to effectuate the purposes expressed in the preamble and in such manner as to protect the rights of laboring men to work and/or to organize for their mutual benefit in connection with their work; nor shall anything in this Act be construed to deny the free rights of assembling, bargaining, and petitioning, orally or in writing with respect to all matters affecting labor and employment.

Separability clause with respect to constitutional invalidity

Sec. 15. If any Section or part whatsoever of this Act shall be held to be invalid, as in contravention of the Constitution, such invalidity shall not affect the remaining portions thereof, it being the express intention of the Legislature to enact such Act without respect to such Section or part so held to be invalid. Acts 1943, 48th Leg., p. 180, ch. 104.

Filed without the Governor's signature,
April 5, 1943.

Effective 90 days after May 11, 1943,
date of adjournment.

Section 16 of the Act of 1943 declared
an emergency but such emergency clause
was inoperative under Const. art. 3, § 39.

Title of Act:

An Act regulating labor unions; declaring a public policy; defining words and terms; requiring certain reports by labor unions to the Secretary of State; fixing the time therefor; providing a limited privilege character for such reports; regu-

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

lating the manner and time of the election of officers, agents, organizers and representatives of labor unions, stating a proviso; making it unlawful for an alien, or any one convicted of a felony, to serve as an officer, official or organizer of a labor union, excepting a convicted felon whose citizenship has been restored; making it unlawful for any labor union to make a financial contribution to any political party or person running for political office; regulating the duties and activities of organizers for labor unions; prescribing certain duties of the Secretary of State; requiring labor unions to file with the Secretary of State copies of certain working agreements; providing a qualified privilege for such agreements; regulating fees, dues, fines, assessments and pecuniary exactions by labor unions; regulating the collection and disposition of fees, dues and moneys whatsoever, collected by organizers, officers, members or agents of labor unions, in respect to membership in unions, or for the privilege or permit to work; requiring labor unions to keep certain books of accounts, open to certain inspection; regulating rights of members, and persons desiring membership in labor unions; dealing with expulsion and reinstatement of members; prescribing penalties and remedies, and enforcement officers; declaring rules of construction; containing a saving clause with respect to constitutional invalidity; and declaring an emergency. Acts 1943, 48th Leg., p. 180, ch. 104.

CHAPTER SIX—FEMALE EMPLOYEES

Art.

5172a. Hours of work for female employees; seats; exceptions [New].

Arts. 5168-5171. Repealed. Acts 1943, 48th Leg., p. 94, ch. 68, § 14.
Eff. March 18, 1943

Art. 5172a. Hours of work for female employees; seats; exceptions

Section 1. No female shall be employed in any factory, mine, mill, workshop, mechanical or mercantile establishment, hotel, restaurant, rooming house, theater, moving picture show, barber shop, beauty shop, road side drink and/or food vending establishment, telegraph, telephone or other office, express or transportation company, or any State institution, or any other establishment, institution or enterprise where females are employed, for more than nine (9) hours in any one calendar day, nor more than fifty-four (54) hours in any one calendar week.

Laundry and cleaning establishments

Sec. 2. No female shall be employed in any laundry or cleaning and pressing establishment for more than fifty-four (54) hours in one calendar week; the hours of such employment to be so arranged as to permit the employment of such female at any time so that she shall not work more than a maximum of eleven (11) hours during the twenty-four hours period of one day. If such female is employed for more than nine (9) hours in any one day she shall receive pay at the rate of double her regular pay for such time as she is employed for more than nine (9) hours per day.

Cotton, woolen or worsted goods workers

Sec. 3. No female shall be employed in any factory engaged in the manufacture of cotton, woolen or worsted goods or articles of merchandise manufactured out of cotton goods for more than ten (10) hours in any one calendar day, nor more than sixty (60) hours in any one calendar week. If such female is employed for more than nine (9) hours in any one day she shall receive pay at the rate of double her regular pay for such time as she may be employed for more than nine (9) hours per day.

Seats for female employees

Sec. 4. Every employer owning or operating any factory, mine, mill, workshop, mechanical or mercantile establishment, laundry, hotel, restaurant or rooming house, theater or moving picture show, barber shop, beauty shop, telegraph or telephone company, or other office, express or transportation company; the superintendent of any State institution or any other establishment, institution or enterprise where females are employed as provided in the three preceding Sections, shall provide and furnish suitable seats, to be used by such employees when not engaged in the active duties of their employment and shall give notice to all such employees by posting a notice in a conspicuous place on the premises of such employment, in letters not less than one inch in height, that all such employees will be permitted to use such seats when not so engaged.

Exceptions as to certain employments

Sec. 5. The four preceding Sections shall not apply to stenographers and pharmacists, nor to mercantile establishments, nor telephone and telegraph companies in rural districts, and in cities or towns or villages of less than three thousand (3,000) inhabitants as shown by the last preceding Federal Census, nor to superintendents, matrons and nurses and attendants employed by, in, and about such orphans' homes as are charitable institutions not run for profit, and not operated by the State. In case of extraordinary emergencies, such as great public calamities, or where it becomes necessary for the protection of human life or property, longer hours may be worked; but for such time not less than double time shall be paid such female with her consent.

Exceptions during war or national emergencies

Sec. 6. In addition to the foregoing exemptions, in time of war and/or when the President of the United States proclaims a state of national emergency to exist, female workers employed in industries coming within the jurisdiction of the Fair Labor Standards Act of 1938 and amendments thereto,¹ the Act of June 30th, 1936, C. 881, 49 Statute 2036, U.S. Code, Supplement II, Title 41, Paragraph 35-45, as amended by Act of May 13, 1942, Public No. 552, 77th Congress, 2nd Session, commonly known as the Walsh-Healey Act,² or the Act of March 3, 1931, C. 411, 46 Statute 1494, as amended August 30, 1935, C. 825, 49 Statute 1011, U.S. Code Title 40, Paragraph 276A and Supplement V, Title 40, Paragraph 276A-276A-6, commonly known as the Bacon-Davis Act,³ are exempted from the provisions of Sections 1, 2, 3, 4, 5, and 13 of this Act, and female workers in such industries may be employed not exceeding ten (10) hours per day provided such hours of employment in such industries are not injurious to the health or morals of female employees, or working such hours does not add to the hazards of their occupations and such hours of employment are in the public interest. Provided, however, that in time of war and/or when the President of the United States proclaims a state of national emergency to exist, all female office employees of such employers coming within the purview of Section 6 hereof are exempt from the provisions of this Act.

Application for hearing

Sec. 7. Employers, or one-third (1/3) the female employees of employers, coming within the jurisdiction of any of the Federal Acts enumerated in Section 6 may apply to the Commissioner of Labor Statistics for a hearing under the terms of this Act, and it shall be the duty of

the Commissioner of Labor Statistics, on the filing of the application, to designate a date for a hearing not later than thirty (30) days after the date of the receipt of the application; and he shall within five (5) days from the date of the receipt of such application, set a date for a hearing, and notify such applying employer or employees of such date; but for good cause shown by employer or employees, the Commissioner may postpone such hearing for as much as five (5) days, and he shall designate the place of such hearing, which may be anywhere in the State of Texas, but at a place convenient to the employer, employees and the Commissioner or any representative duly authorized by him for such purpose; and the Commissioner or his representative shall hold such hearing at the time and place designated.

Notice of application for hearing

Sec. 8. When any employer shall apply for a hearing, such employer shall give notice of the application to the employees affected by posting notices in the plant, yard and/or place of business of such employer at places readily accessible to the affected employees and in such manner that the employees in the usual course of their employment shall have an opportunity to read and inspect such notices.

Order granting exemption; effect

Sec. 9. In time of war the Commissioner of Labor Statistics may, based upon private investigation and without notice or hearing, if he finds that the employment of female employees in any designated industry for ten (10) hours per day will not injure the health or morals and/or add to the hazards of their occupation, and that such hours of labor are in the public interest, file his findings as required herein, and make an order granting an exemption; and the employer affected shall be exempt for thirty (30) days from the provisions of this Act, during which time if further exemption is desired by employers affected, notice and hearing as provided herein shall be had as though no temporary exemption had previously been in effect.

Requirements as to notice

Sec. 10. The employer's notice to employees required herein shall state that the application for a hearing is made, and the date which has been set for the hearing, and if an emergency exemption under the foregoing provisions of this Act is in effect insofar as the employer's business, trade, or industry is concerned, it shall state the date a hearing shall be had to extend the exemption for a period of six (6) months. The affidavit of an employer or an officer of an employer that such notice has been given shall be prima facie evidence that the notice provisions of this Act have been complied with. Failure to give such notice shall be sufficient cause to reject such application.

Hearing; findings; order; extensions

Sec. 11. On the date designated for a hearing, the Commissioner of Labor Statistics, or his authorized representative, shall hold an informal hearing under such rules as the Commissioner of Labor Statistics may make, at which anyone interested may offer information; and if the Labor Commissioner finds as a matter of fact from the evidence presented that the employment of female workers in the business, trade, and/or industries concerned, for ten (10) hours per day is not injurious to the

health or morals of the females employed therein and/or does not add to the hazards of their occupation, and that ten (10) hours per day of labor is in the public interest, he shall make written findings of such facts and file such with the Secretary of State, and draw an order granting such employer affected exemption from the provisions of Sections 1, 2, 3, 4, 5, and 13 herein for a period of six (6) months, which order shall be made within five (5) days after the conclusion of the hearing and shall be filed with the Secretary of State. Such orders of the Commissioner during wartime shall be extended at the end of six (6) months for a like period of six (6) months without further notice or hearing, unless prior to such automatic extension, a protest is filed with the Commissioner, notice of which protest is furnished to the employer, by a sufficient number of employees to lead the Commissioner to believe that there is no longer a necessity for such exemption. If he finds the facts adversely to the applicant he will so state in his findings and no order will issue.

Failure to comply; cancellation of exemption

Sec. 12. Wilful failure of the employer to comply with any law or laws as to payment of wages of employees shall be sufficient grounds for the Commissioner to cancel such exemption; and any employer violating any such law after notice from the Commissioner, shall not plead such exemption as a defense to any prosecution for violation of this law arising after such notice.

Punishment for violations

Sec. 13. Any employer, overseer, superintendent, foreman, or other agent of any such employer who shall permit any female to work in any place mentioned in Sections 1, 2 and 3 of this Act more than the number of hours provided therein in any one day of twenty-four hours in any one calendar week, or who shall violate any of the other provisions or requirements of the Act in any respect, or who having furnished and provided suitable seats as provided for in Section 4, shall by intimidation, instruction, threats, or in any manner, prevent such female from sitting thereon, when not attending the duties of her position, shall be fined not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars. Each day of such violation and each calendar week of such violation, and each employee permitted to work in said places more than the hours so specified in this Chapter, and every other violation of the provisions of this Chapter, shall be considered a separate offense. However, no employer having an exemption as provided for herein shall be prosecuted so long as such exemption is valid and in effect.

Partial invalidity

Sec. 15. Saving Clause. That in the event any Section or part of a Section of the provision of this Act be held invalid, unconstitutional, or inoperative, this shall not affect the validity of the remaining Sections, or parts of Sections of this Act; but the remainder of the Act shall be given effect as if said invalid, unconstitutional or inoperative Section, or part of Section or provision, had not been included. In the event any penalty, right or remedy created or given in any Section or part of this Act is held invalid, unconstitutional or inoperative, this shall not affect the validity of any other penalty, right or remedy created or given either in the whole Act or in the Section thereof containing such invalid, unconstitutional or inoperative part; and if any exception to, or any limitation upon any general provision herein contained shall be held to be unconstitutional

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or invalid, the general provisions shall nevertheless stand effective and valid as if the same had been enacted without such limitation or exceptions. Acts 1943, 48th Leg., p. 94, ch. 68.

¹ 29 U.S.C.A. §§ 201-219.

² 41 U.S.C.A. §§ 35-45.

³ 40 U.S.C.A. §§ 276a-276a-5.

Approved and effective March 18, 1943.

Section 14 of the Act of 1943 read as follows: "Chapter 56 of the General Laws of 1915, Regular Session of the 34th Legislature, Chapters 86 and 87 of General Laws of 1929, 41st Legislature, First Called Session; Chapter 114 of General Laws of 1933, Regular Session of the 43rd Legislature, Articles 1569, 1570, 1571, 1572, of Title 13, Chapter 3 of the Penal Code of Texas, Articles 5168, 5169, 5170, 5171 and 5172 of Chapter 6, Title 83 of the Revised Civil Statutes of Texas, are hereby specifically repealed, and all other laws and parts of laws in conflict herewith are hereby repealed."

Section 16 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act limiting the hours of labor and prescribing wages for overtime labor of female employees employed in any factory, mine, mill, workshop, mechanical or mercantile establishment, hotel, restaurant, rooming house, theater, moving picture show, barber shop and/or beauty shop, road side drink and/or food vending establishment, telegraph, telephone or other office, express or transportation company, or any State institution, or any other establishment, institution or enterprise where females are employed, any laundry, any factory engaged in the manufacture of cotton, woolen or worsted goods or articles of merchandise manufactured out of cotton goods; compelling each employer of female labor in the businesses, establishments, or institutions set out above to provide suitable seats for such female employees when not engaged in their active duties; providing that notice of said suitable seats shall be prominently posted; providing exceptions for certain types of employment and for certain employees working in rural districts and cities or towns of less than three thousand (3,000) inhabitants; providing certain exemptions in times of extraordinary emergencies; providing that in time of war and/or a pro-

claimed national emergency female workers in certain industries may be employed not exceeding ten (10) hours per day, provided such employment is not injurious to health or morals and/or working such hours does not add to the hazards of worker and such hours of employment are in the public interest; providing exemptions of office employees of certain employers; providing certain duties and powers of the Commissioner of Labor Statistics; providing for procedure of informal hearings; giving the Commissioner of Labor Statistics power to promulgate certain rules and regulations and make certain written findings of fact and orders in connection therewith; providing for the posting of notices when employers make application for hearings; providing for content of notices; providing Commissioner of Labor Statistics may designate representatives to hold hearings; providing the Commissioner of Labor Statistics make certain findings and orders in connection therewith; providing exemptions may be made for six (6) months and automatically be extended; providing for cancellation of exemption under certain circumstances; providing that an exemption cannot be used as a defense after notice of cancellation has been given; setting out penalties for the violation of the Act; providing for the repeal of Chapter 56 of the General Laws of 1915, Regular Session of the 34th Legislature; Chapters 86 and 87 of General Laws of 1929, 41st Legislature, First Called Session, Chapter 114 of General Laws of 1933, Regular Session of the 43rd Legislature; Articles 1569, 1570, 1571, 1572 of Title 13, Chapter 3 of the Penal Code of Texas, Articles 5168, 5169, 5170, 5171 and 5172 of Chapter 6, Title 83 of the Revised Civil Statutes of Texas, are hereby specifically repealed, and all other laws and parts of laws in conflict herewith are hereby repealed; declaring the provisions of this Act to be severable, and declaring an emergency. Acts 1943, 48th Leg., p. 94, ch. 68.

CHAPTER THIRTEEN—EMPLOYMENT AGENTS

Art.

5221a—4. Employment or labor agencies
[New].

Arts. 5208-5210. Repealed. Acts 1943, 48th Leg., p. 86, ch. 67, § 22.
Eff. March 17, 1943

[Art. 5210a. Appropriation of fees collected]

This article, derived from Acts 1926, 39th Leg., 1st C.S., p. 11, ch. 7, § 1, made an appropriation of license fees collected, for

use of Commissioners of Labor from September 1, 1926, to August 31, 1927.

Arts. 5211 to 5221a—1. Repealed. Acts 1943, 48th Leg., p. 86, ch. 67, § 22. Eff. March 17, 1943

Art. 5221a—4. Employment or labor agencies; definitions

Section 1. (a) The term "person" means an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.

(b) "Fee" means anything of value including money or other valuable consideration or services or the promise of any of the foregoing received by an employment agency from or on behalf of any person seeking employment or employees in payment for any service, either directly or indirectly.

(c) "Employer" means any person employing or seeking to employ any employee.

(d) "Employee" means any person performing or seeking to perform work or service of any kind for hire.

(e) "Employment or Labor Agent" means any person in this State who for a fee offers or attempts to procure or procures employment for employees, or without a fee offers or attempts to procure or procures employment for common laborers or agricultural workers, or any person who for a fee offers or attempts to procure or procures employees for employers, or without a fee offers or attempts to procure or procures common laborers or agricultural workers for employers, or any person, regardless of whether a fee is received or due, offers or attempts to supply or supplies the services of common or agricultural workers to any person.

(f) "Commissioner" shall mean the Commissioner of the Bureau of Labor Statistics.

(g) "Deputy or Inspector" shall mean any person who is duly authorized by the Commissioner to act in that capacity.

(h) "Agent" shall mean either employment agent or labor agent as defined by this Act.

Exceptions

Sec. 2. The provisions of this Act shall not apply to persons who charge a fee of not more than Two Dollars (\$2) for registration only for procuring employment for school teachers; provisions of this Act shall not apply to any employment agency established and operated by this State, the United States Government, or any municipal government of this State; the provisions of this Act shall not apply to any person who may operate a labor bureau or employment office in conjunction with his own business for the sole and exclusive purpose of employing help for his own use within this State, nor to any common carrier operating in this State who may operate an employment office in conjunction with his own business for the exclusive purpose of employing help for his own use within or without this State, provided, that no fee or other charge or reduction is exacted from the salary or wages of the worker for employment given. If a fee or charge of any kind, either directly or indirectly, is exacted of the worker, then said employer is deemed an employment or labor agent and is subject to the provisions of this Act. The provisions of this Act shall not apply to farmers or stock raisers acting jointly or severally in securing laborers for their own use in this State where no fee is charged or collected, either directly or indirectly, for employment given; the provisions of this Act shall not apply to any person, corporation, or charitable association chartered under the Laws of Texas for the purpose of conducting a free employment bureau or agency; nor to any veterans' organization or labor union; nor to any nurses' organizations operated not for profit, to be conducted by

recognized professional registered nurses for the enrollment of its professional members only for the purpose of providing professional service to the public.

Application and Bond

Sec. 3. Application and bond for an employment or labor agency license shall be executed on blank forms prescribed and furnished by the Commissioner. Application for license to act as an employment or labor agency may be made in person or by mail to the Commissioner upon blank application form which shall be verified by the applicant. Where the application is made by a firm, partnership, or association of persons, it must be verified by each person for whose benefit the application is made, and such application shall also be accompanied by affidavits of at least five (5) creditable citizens who have resided in the county in which such applicant desires to conduct the business of an employment or labor agency for at least three (3) years, to the effect that the applicant or applicants are residents of the county in which such person desires to become an employment or labor agent, and that such person or persons are of good moral character. The Commissioner may require additional evidence of the moral character of applicants and may make such additional investigation of said applicant as he deems necessary, and no license shall be granted to any persons except those of good moral character.

Such application shall be examined by the Commissioner and if he finds that the same complies with the law and that the applicant is entitled to a license, then he shall issue a license to the applicant for each county for which application is made, and shall deliver such license to the applicant upon the payment of a license fee of One Hundred and Fifty Dollars (\$150) for each county in which the employment or labor agent intends to operate. Not more than one office shall be operated for each license issued. Each person making application for an employment or labor agency license and before such license is issued, shall make and file with the Commissioner a good and sufficient bond executed by the applicant with good and sufficient surety in the penal sum of Five Thousand Dollars (\$5,000), payable to the State of Texas, for each county in which the agent intends to operate; said bond shall be conditioned that the obligor will not violate any of the duties, terms, conditions and requirements of this Act, and that the principal, his agents or representatives will not make any false representation or statement to any person soliciting any assistance from him for employees or employment, or solicited by him to accept employment.

Said bond shall further recite that any person injured or aggrieved by any false or fraudulent statement of such agent, his sub-agents or representatives, or any violation of the provisions thereof by such agent, sub-agent or representative, shall be entitled to bring suit thereon. Each license issued by the Commissioner shall be good for a period of one year from the date of issuance.

Disposition of License Fees Collected

Sec. 4. Until September 1., 1943, the Commissioner shall deposit with the State Treasurer as provided by law all moneys received by him from license fees under the provisions of this Act, to be held in a separate fund known as the "Employment Agency Fund" and to be used for expenses incurred in inspecting, regulating and printing blank forms to be furnished such employment agencies by the Commissioner and the same, together with balance on hand in such fund on the effective date of this Act, is hereby appropriated for said purposes, and

all such expenditures shall be verified by the person to whom such payments are made and on the approval of such expenditures by the Commissioner it shall be the duty of the Comptroller of the State to draw his warrant on the Treasurer of the State for the amount of such expenditures in favor of the person claiming the same, to be paid out of the "Employment Agency Fund." On September 1, 1943, all moneys remaining in such special fund and all moneys thereafter received by the Commissioner from license fees under this Act shall be paid into and become a part of the General Revenue Fund.

Suits on Bond

Sec. 5. Any person injured or aggrieved by any action, conduct, false representation or false statement of any such employment agent, his sub-agents or representatives may bring suit for damages against such agent on said bond in any county where such action, conduct, false representation or false statement was made in any Court of competent jurisdiction, without the necessity of making the State a party thereto. Where the bond has become impaired by recoveries thereon to the extent of fifty (50) per cent of the penal sum named therein, the Commissioner may, by a notice in writing, demand the execution of a new bond, which if not executed and submitted to the Commissioner within twenty (20) days for his approval, such failure to execute a new bond shall ipso facto forfeit and cancel the license issued to the principal named in said bond.

Occupation Tax on Agencies Sending Employees Out of State

Sec. 6. In addition to the license fee and bond required in Section 3 of this Act, every employment or labor agent hiring, enticing, or soliciting common or agricultural workers in this State to be employed beyond the limits of this State, shall pay an annual State tax of Six Hundred Dollars (\$600) and in each county where said employment or labor agent operates, an annual tax on a population basis according to the preceding Federal census as follows: In counties under one hundred thousand (100,000) population the sum of One Hundred Dollars (\$100); in counties having a population from one hundred thousand (100,000) to two hundred thousand (200,000) inclusive, the sum of Two Hundred Dollars (\$200); and in counties over two hundred thousand (200,000) population the sum of Three Hundred Dollars (\$300). This tax shall be paid to the Commissioner at the time such employment or labor agency license or licenses are issued and shall be forwarded by him to the proper tax collection agencies. Such tax shall be good for the same period of time as the employment agency license.

Agents to Keep Record

Sec. 7. Every licensed employment or labor agent shall keep and maintain an office in this State at which a complete record of the business transacted shall be kept; he shall keep such records of his business transacted as deemed necessary by the Commissioner, and on a form prescribed by the Commissioner. All of the books, correspondence, memoranda, papers and records of every kind and character incident to the business of an employment or labor agent licensed under this Act shall be subject to inspection at any time by the said Commissioner of the Bureau of Labor Statistics, his deputies or inspectors, and a failure to keep such records as deemed necessary by the Commissioner or a failure to permit said Commissioner, his deputies or inspectors to

inspect such books, correspondence, memoranda, papers and records at any time shall be sufficient grounds for the Commissioner to cancel the license of such agents, and he shall have the authority and it shall be his duty to do so.

Cancellation of License

Sec. 8. The Commissioner shall have the authority, and it shall be his duty, to cancel the license of any employment agent when it shall appear to his satisfaction, upon hearing, that such agent has been convicted in a State or Federal Court of an offense which under the laws of this State is a felony, or for any offense involving moral turpitude, or that the agent had obtained his license illegally or fraudulently or was guilty of fraud, false swearing, or deception in securing his license, or has violated any provision of this Act.

The Commissioner shall not cancel the license of any agent until complaint in writing, made by a credible person, shall be filed with him, specifying in general terms the grounds of the proposed cancellation, and a full and fair hearing given to him thereon. Upon the filing of such complaint, the Commissioner shall fix a time and place, reasonably accessible to the agent complained against, for the hearing of said complaint. The Commissioner shall notify the agent so complained against of the time and place fixed for said hearing by a registered letter addressed to him at his post office address as the same appears upon his application for license, accompanied by an exact copy of the complaint against him; and mailing of such notice and copy shall be sufficient and conclusive evidence of proper service of the procedure upon the agent so complained against. The agent so complained against shall have at least ten (10) days after the date said notice is mailed, exclusive of the day of mailing and the day of hearing, before hearing upon said complaint shall be had, and shall have the right to file answer, introduce evidence and to be heard both in person and by counsel. The Commissioner shall have the power to summon and compel the attendance of witnesses before him to testify in relation to any such complaint, and may require the production of any book, paper or document deemed pertinent thereto. Said Commissioner shall also have the power to provide for the taking of depositions of witnesses and evidence may be heard either from witnesses present testifying orally, or by deposition taken under such rules, and in such fair and impartial manner as the Commissioner may prescribe. Said hearing shall be had before the Commissioner and shall be conducted in a fair and orderly manner, and in accordance with rules of procedure to be adopted by the Commissioner.

At the conclusion of the hearing the Commissioner shall enter his findings and judgment in writing and the same shall be recorded by him in a permanent record to be kept by him, and a copy thereof furnished to the agent complained against. Any agent whose license shall be cancelled by the Commissioner, may, within thirty (30) days after the cancellation thereof, and not thereafter, have his right of action for reinstatement against the Commissioner in the District Court of Travis County. If the agent whose license has been cancelled by the Commissioner shall, within ten (10) days after receiving information of such cancellation, give notice to the Commissioner in writing of his intention to file such suit, the action of the Commissioner in cancelling the said license shall be suspended for a period of thirty (30) days, but unless such suit shall be filed within said time, the action of the Commissioner shall be final. If suit shall be filed against the Commissioner to reinstate said license within said time, the action of the Commissioner shall remain sus-

pending until the validity of the license in question shall be adjusted by the Court in said suit. In such suits the burden shall be upon the agent to show good cause for reinstatement of his license.

Out-of-State Agencies

Sec. 9. No foreign labor agent, labor bureau or labor agency or other person or corporation resident of or domiciled in any other State or Territory of the United States shall enter this State and attempt to hire, entice, or solicit or take from this State any common or agricultural workers, singly or in groups, for any purpose without first applying to the Commissioner of the Bureau of Labor Statistics for a license as an employment or labor agent as provided by this Act.

Reports to Commissioner on Out-of-State Workers

Sec. 10. Any employment or labor agent hiring, enticing, or soliciting common or agricultural workers in this State to be employed beyond the limits of this State, shall make monthly reports to the Commissioner on the first day of each and every month covering the preceding month, correctly showing the name and address of every representative, sub-agent, contractor, solicitor, or recruiter engaged in any part of the work of that agency connected with the hiring, enticing, or soliciting of common or agricultural workers in this State to be employed beyond the limits of this State, and correctly showing:

- (a) The name, age, sex, race, and address of each person solicited to be employed beyond the limits of this State.
- (b) The name and address of the employer of every such person.
- (c) The kind of work every such person is employed to do.
- (d) The place where every such person is to be employed.
- (e) The term of employment of every such person.
- (f) The wages to be paid to every such person for his work, and
- (g) The number, name and address of each party, if any, returned to the State of Texas, by said agent, which report shall be filed with the said Commissioner of the Bureau of Labor Statistics, and
- (h) Whether or not transportation is to be furnished, arranged for, or paid for any such common laborer or agricultural worker either leaving or returning to this State.

The said Commissioner shall have the authority and it shall be his duty to cancel the license of every agent who fails to make and file such monthly reports on or before the tenth day of each month, respectively, for the preceding month in accordance with the cancellation procedure provided in this Act.

Fees

Sec. 11. Where a fee is charged for obtaining employment such fee in no event shall exceed the sum of Three (\$3) Dollars, which may be collected from the applicant only after employment has been obtained and accepted by the applicant; provided, however, employment or labor agents engaged exclusively in providing employment for skilled, professional, or clerical positions may charge, with the written consent of the applicant, a fee, not to exceed thirty (30) per centum of the first month's salary, which may be collected from the applicant only after employment has been obtained and accepted by the applicant.

Receipt Forms Prescribed

Sec. 12. 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.

Authority of the Commissioner

Sec. 17. The Commissioner of the Bureau of Labor Statistics and his deputies or inspectors are hereby empowered to enforce the provisions of this Act, and shall have the authority of peace officers in making arrests of any person or persons who violate, in their presence, any of the provisions of this Act; and when such arrest has been made, the Commissioner or his duly appointed deputies or inspectors may enter any employment office at any time when such employment office is open for business and inspect the registers and all other records of whatsoever kind and character of such employment or labor agent for the purpose of ascertaining whether the provisions of this law are being violated, and the refusal of any employment or labor agent to permit such inspection shall be a violation of the Act, and be sufficient reason for the Commissioner to cancel the license of such agent in accordance with the provisions of Section 5 of this Act.

Injunction

Sec. 18. Any person who shall act as an employment or labor agent, or who shall conduct an employment office, without first procuring a license as required and provided for in this Act may be enjoined from unlawfully pursuing such business or occupation, and the Attorney General shall bring suit for such purpose in the name of the State of Texas in Travis County, and the district or county attorney of any county wherein such person engages in such business or conducts an employment office in violation of this Act is hereby authorized to maintain in the proper Court of said county a suit in the name of the State of Texas to enjoin and prevent such person from unlawfully pursuing such occupation. 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 any bond as a condition precedent to the issuing of any injunction or restraining order hereunder.

License as Evidence

Sec. 19. Any application made by an employment or labor agent for a license, or a certified copy thereof under the hand and seal of the Commissioner, shall be received as evidence in any Court in this State without the necessity of proving the execution thereof.

Saving Clause

Sec. 21. That in the event any section, or part of section or provision of this Act be held invalid, unconstitutional, or inoperative, this shall not affect the validity of the remaining sections, or parts of sections of this Act, but the remainder of the Act shall be given effect as if said invalid, unconstitutional or inoperative section, or part of section or provision, had not been included. In the event any penalty, right or remedy created or given in any section or part of this Act is held invalid, unconstitutional or inoperative, this shall not affect the validity of any other penalty, right or remedy created or given either in the whole Act or in the section thereof containing such invalid, unconstitutional or inoperative part, and if any exception to or any limitation upon

any general provision herein contained shall be held to be unconstitutional or invalid, the general provisions shall nevertheless stand effective and valid as if the same had been enacted without such limitation or exceptions. Acts 1943, 48th Leg., p. 86, ch. 67.

Approved and effective March 17, 1943.

Sections 13-16, 20 of Acts 1943, 48th Leg., p. 86, ch. 67, are set out as Vernon's Ann.P.C., art. 1593a.

Section 22 of the Act of 1943 read as follows: "Repealing Conflicting Laws. The Employment Agency Law as passed by the Thirty-eighth Legislature in 1923, and amended by the Forty-fifth Legislature, Second Called Session, 1937, being Articles 5208 through Article 5221, Revised Civil Statutes of Texas of 1925, and Articles 1584 through Article 1593, Penal Code of Texas, 1925, and the Emigrant Agency Law as passed by the Forty-first Legislature, Second Called Session, 1929, being Senate Bill No. 127, Chapter 96, Page 203, and House Bill No. 102, Chapter 11, Page 16 of said Session Acts, are hereby specifically repealed and all other laws and parts of laws in conflict herewith are hereby repealed."

Section 23 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act repealing the Employment Agency Law as passed by the Thirty-eighth Legislature in 1923, and amended by the Forty-fifth Legislature, Second Called Session 1937, being Articles 5208 through Article 5221, Revised Civil Statutes of Texas, of 1925, and Articles 1584 through Article 1593, Penal Code of Texas of 1925, and repealing the Emigrant Agency Law as passed by the Forty-first Legislature, Sec-

ond Called Session, 1929, being Senate Bill No. 127, Chapter 96, Page 203, and House Bill No. 102, Chapter 11, Page 16 of said Session Acts; providing an Employment and Labor Agency Law for Texas; defining certain terms used in the Act; defining certain exceptions; providing a method of licensing of employment and labor agents; providing a license fee and the posting of bonds; providing for the disposition of fees collected; providing for suits on bonds; providing an occupation tax to be paid in certain cases; providing a method of record keeping to be promulgated by the Commissioner of the Bureau of Labor Statistics; providing a method of cancelling licenses by the Commissioner; providing for appeals to Court; defining out-of-state agencies operating in this State; providing reports to be made of workers sent out of the State; providing a schedule of fees; providing receipt forms; prohibiting certain acts; prohibiting untruths by employer or applicant; providing for the display of license and law; declaring it to be a violation to operate without a license; defining the duties and authority of the Commissioner; providing for enforcement by civil proceedings; providing application for license shall be received as evidence; providing penalties; providing a saving clause; repealing conflicting laws; and declaring an emergency. Acts 1943, 48th Leg., p. 86, ch. 67.

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

-Art.

5221b—4a. Preservation of benefit for members of armed forces [New].

Art. 5221b—1. Benefits; amount and payment; duration

(a) Payment of benefits: On and after January 1, 1938, 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 fifty (50) cents.

(b) Benefit amount for total unemployment: Each eligible individual who is totally unemployed in any benefit period shall be paid with respect to such benefit period, benefits at the rate of one-thirteenth (1/13) of his wages received from employment by employers during that quarter in his base period in which such wages were highest, but not more than Thirty (\$30.00) Dollars per benefit period, nor less than Ten (\$10.00) Dollars per benefit period.

(c) Benefit for partial unemployment: Each eligible individual who is partially unemployed in any benefit period shall be paid with respect

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

to such benefit period a partial benefit, provided that such individual shall meet the requirements of Section 4(a) of this Act.¹ Such partial benefit shall be the benefit amount plus Four (\$4.00) Dollars less the wages earned during such benefit period. If such partial benefit for any benefit period equals less than Two (\$2.00) Dollars, it shall not be payable unless and until the accumulated total of benefits payable to such individual with respect to benefit periods occurring within the fourteen (14) preceding weeks equals Two (\$2.00) Dollars or more.

(d) Duration of benefits: The Commission shall compute wage credits for each individual by crediting him with the wages received by him for employment by employers during each quarter, or Four Hundred (\$400.00) Dollars, whichever is the lesser. Benefits paid to any eligible individual shall be charged against the wage credits earned during his base period, at the rate of one-fifth (1/5) of such wage credits. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of: (1) eight (8) times his benefit amount; (2) one-fifth (1/5) of such uncharged wage credits with respect to his base period. As amended Acts 1943, 48th Leg., p. 585, ch. 343, § 1.

¹ Article 5221b—2.

Approved May 15, 1943.

Effective July 1, 1943.

Section 8 of the amendatory Act of 1943 repealed article 5221b—6a.

Sections 9 and 10 read as follows:

"Sec. 9. This Act shall be effective July 1, 1943.

"Sec. 10. All laws or parts of laws in conflict herewith, insofar as they do conflict herewith, are hereby repealed, but such repeal shall in no way be construed as forfeiting or waiving any rights of the

State of Texas or of the Texas Unemployment Compensation Commission which have accrued thereunder, including, without being limited thereto, the right to collect contributions, interest or penalties that have accrued, and the right of prosecution for violation of any provisions thereof."

Section 11 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 5221b—2. Benefit eligibility conditions

An unemployed individual shall be eligible to receive benefits with respect to any benefit period only if the Commission finds that:

(a) He has registered for work at, and thereafter has continued to report at, 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) He has within his base period received wages from employment by employers equal to not less than eight (8) times his benefit amount.

(e) Prior to the first payment of any series of benefits based on an initial claim, he has been totally or partially unemployed for a waiting period of one week. No week shall be counted as a waiting period week for the purposes of this subsection:

(1) unless he has registered at an employment office in accordance with Section 4(a) of this Act;²

(2) unless it is the week immediately preceding or the week immediately following the filing of an initial claim, as the Commission may by regulation prescribe;

(3) if benefits have been paid with respect thereto. As amended Acts 1943, 48th Leg., p. 585, ch. 343, § 2.

¹ Article 5221b—4.

² Article 5221b—2.

Approved May 15, 1943.

Effective July 1, 1943.

Art. 5221b—3. Disqualification for benefits

An individual shall be disqualified for benefits:

(a) If the Commission finds that he has left his last employment voluntarily without good cause connected with his employment. Such disqualification shall be for not less than one (1) nor more than eight (8) benefit periods immediately following the filing of a valid claim, as determined by the Commission according to the circumstances in each case.

(b) If the Commission finds that he has been discharged for misconduct connected with his last employment. Such disqualification shall be for not less than one (1) nor more than eight (8) benefit periods immediately following the filing of a valid claim, 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 be for not less than one (1) nor more than four (4) benefit periods following the filing of a valid claim, 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,¹ 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 benefit period 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 sub-section, be deemed to be a separate factory, establishment, or other premises.

(e) For any benefit period with respect to which he is receiving or has received remuneration in the form of:

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

- (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,² or similar payments under any Act of Congress, or a State Legislature, or employer pension plan, 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 benefit period, if otherwise eligible, benefits reduced by the amount of such remuneration.

(f) In determining the number of benefit periods during which any individual is entitled to receive benefits in a benefit year, the Commission shall deduct any period of disqualification as provided in subsections (a), (b), and (c) of this Section from the total number of benefit periods during which he would otherwise be entitled to receive benefits except for such disqualification; provided, that in no case shall the number of benefit periods so deducted exceed the number of benefit periods during which the claimant is then eligible to receive benefits except for such disqualification. As amended Acts 1943, 48th Leg., p. 585, ch. 343, § 3.

¹ Article 5221b—1 et seq.

² 42 U.S.C.A. § 401 et seq.

Approved May 15, 1943.

Effective July 1, 1943.

Art. 5221b—4a. Preservation of benefits for members of armed forces

Any provisions in this Act¹ to the contrary notwithstanding, any individual who entered upon active duty in the military or naval service of the United States on or after September 19, 1940, shall, if he files a claim for unemployment benefits within ninety (90) days after his discharge or release from such military or naval service of the United States, have the same benefit rights that he had at the time of his entry into the service, and such benefit right shall be determined in the same manner as if he had filed such claim for unemployment benefits upon the day on which he entered upon active duty in the military or naval service of the United States, provided:

(1) He shall present to the Commission satisfactory evidence of the date on which he entered active duty in the military or naval service of the United States and the date on which he was discharged or released therefrom; and

(2) He shall have (a) made application for the job or position, if any, which he had at the time of entry into the service, within forty (40) days from his discharge or release from active military or naval service; or (b) satisfied the Commission that he has had reasonable cause for not having made such application within said period of forty (40) days, and, in addition, satisfied the Commission that he has subsequently made reasonable effort to re-enter his former job or position or secure other suitable employment.

Provided, however, that the provisions of this Section 6-A shall be inoperative from the effective date of any legislation by the Congress of the United States providing for financial assistance, other than medical service or disability compensation, to the said discharged or released members of the military or naval services of the United States. Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 6-A, as added Acts 1943, 48th Leg., p. 585, ch. 343, § 4.

¹ Article 5221b—1 et seq.

Approved May 15, 1943.

Effective July 1, 1943.

Art. 5221b—5. Contributions

(a) Payment: On and after January 1, 1936, contributions shall accrue and become payable by each employer for each calendar year, or portion thereof, in which he is subject to this Act,¹ with respect to wages payable for employment occurring during such calendar year; provided, however, that on and after July 1, 1943, contributions shall accrue and become payable by each employer for each calendar year, or portion thereof, in which he is subject to this Act, with respect to wages paid for employment occurring on or after July 1, 1943, and during such calendar year, or portion thereof. Such contributions shall become due and be paid by each employer to the Commission for the fund in accordance with such regulations 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.

(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 (9/10 of 1%) 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, and 1940;

(4) With respect to employment after December 31, 1940, the percentage determined pursuant to sub-section (c) of this Section; except that with respect to employment occurring on and after July 1, 1943, the determination shall be made with respect to wages paid by him.

(c) Experience Rating: (1) For each calendar year commencing after December 31, 1940, the contribution rate of each employer who has had three (3) years of compensation experience shall be determined by the fund's maximum liability for benefits to his employees who have received benefits, modified by the state experience as to average duration of benefit payments, as provided below.

(2) When in any benefit year beginning after December 31, 1937, an employee is first paid benefits for total or partial unemployment, his wages during his base period shall be termed the "employee's benefit wages", and shall be treated for the purposes of this paragraph as though they had been paid in the calendar year in which such first benefit is paid. Benefit wages shall include only the wages available for wage credits from employers in a base period. As applied to the calendar year 1938, and the first calendar quarter of 1939, the term "base period" shall mean 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 the first day of an individual's benefit year, except 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 the last completed calendar quarter immediately preceding the first day of an individual's benefit year, and except that the definition of "base period" contained in this sentence shall be applicable only to "base period" as used in the computation of an employer's experience rating, in accordance with the provisions of sub-section 7(c) of this Section.

(3) The employer's benefit wages for a given calendar year shall be the total of the benefit wages received from him by all of his em-

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

ployees or former employees who receive their first benefit payment of a given benefit year in such calendar year.

(4) The benefit wage ratio of each employer shall be a percentage equal to the total of his benefit wages for the most recent three (3) consecutive completed calendar years divided by his total taxable payroll for the same three (3) years on which contributions have been paid to the Commission on or before January 31 of the calendar year with respect to which his benefit wage ratio is determined.

(5) For any calendar year the total benefits paid from the fund, less all amounts credited to the fund except employers' contributions collected under this Section, and except interest earned on the fund, shall be termed the "amount required from employers". The amount required from employers, divided by the state-wide total of benefit wages of all employers for that calendar year, after adjustments to the nearest multiple of one (1%) per centum shall be termed the "state experience factor". The state experience factor for any year shall be determined prior to the due date of the first contribution payment on wages for employment in that year and such determination shall be made upon the basis of figures for the preceding calendar year.

(6) The contribution rate for each employer for the current year, to be applied to his current payroll, shall be in accordance with the following table based upon the state experience factor and his benefit wage ratio:

When the State Experience

Factor Is	If the Employer's Benefit Wage Ratio Does Not Exceed:					
	50%	100%	150%	200%	250%	
1%	25	50	75	100	125	
2	17	33	50	66	83	
3						
4	13	25	38	50	63	
5	10	20	30	40	50	
6	8	17	25	34	42	
7	7	14	21	29	36	
8	6	13	19	25	31	
9	6	11	16	22	28	
10	5	10	15	20	25	
11	5	9	14	18	23	
12	4	8	13	17	21	
13	4	8	12	15	19	
14	4	7	11	14	18	
15	3	7	10	13	17	
16	3	6	9	12	16	
17	3	6	9	12	15	
18	3	6	8	11	14	
19	3	5	8	11	13	
20	3	5	8	10	13	
21	2	5	7	10	12	
22	2	5	7	9	11	
23	2	4	7	9	11	
24	2	4	6	8	10	
	The Employer's Contribution Rate Shall Be:					
	.5%	1.0%	1.5%	2.0%	2.5%	

If the employer's benefit wage ratio exceeds the amount in the last column of the table on the line for the current year's state experience factor, his contribution rate shall be two and seven-tenths (2-7/10%) per centum.

(7) Each employer's rate shall be two and seven-tenths (2-7/10%) per centum except as otherwise provided in this Section. No employer's rate shall be less than two and seven-tenths (2-7/10%) per centum for any year, unless and until his account has been chargeable with benefits throughout the thirty-six (36) consecutive calendar months immediately preceding the beginning of the calendar year for which rates are determined.

(8) For the purposes of this Section, benefits shall be deemed to have been paid at the time the claim therefor shall have been certified by the Commission to the State Comptroller.

(9) For the purposes of this Section, two or more employing units which are parties to or the subject of a merger, consolidation, or other form of reorganization effecting a change in legal identity or form, shall be deemed to be a single employing unit if the Commission finds that (i) immediately after such change the employing enterprises of the predecessor employing unit or units are continued solely through a single employing unit as successor thereto; and (ii) immediately after such change such successor is owned or controlled by substantially the same interests as the predecessor employing unit or units; and (iii) the successor has assumed liability for all contributions required of the predecessor employing unit or units; and (iv) the consideration of such two or more employing units as a single employing unit for the purposes of this Section would not be inequitable.

No rate of less than two and seven-tenths (2-7/10%) per centum will be permitted an employing unit succeeding to the experience of another employing unit pursuant to this Section for any period subsequent to such succession except in accordance with regulations prescribed by the Commission, which regulations will be consistent with Federal requirements for additional credit allowance in Section 1602 of the Internal Revenue Code,² and consistent with the provisions of this Act, except that such regulations may establish a computation date for any such period different from the computation date generally prescribed by this Act, and may define the words "calendar year" as meaning a twelve (12) consecutive months period ending on the same day of the year as that on which such computation date occurs.

(10) Nothing in this Section shall be construed as authorizing or requiring the refund of any contributions or portions thereof due and paid prior to July 1, 1943, under this Section, or as waiving the right to collect any contributions or portions thereof due and unpaid under this Section on June 30, 1943. As amended Acts 1943, 48th Leg., p. 585, ch. 343, § 5.

¹ Articles 5221b—1 to 5221b—22.

² 26 U.S.C.A. § 1602.

Approved May 15, 1943.

Effective July 1, 1943.

Repeal of conflicting acts see articles 5221b—17a, 5221b—24.

Art. 5221b—6a. Repealed. Acts 1943, 48th Leg., p. 585, ch. 343, § 8.
Eff. July 1, 1943

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 rep-

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 Act¹ 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,² and the Unemployment Compensation Division. Each 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 insofar 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. 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. As amended Acts 1943, 48th Leg., p. 585, ch. 343, § 6.

¹ Articles 5221b—1 to 5221b—24.

² Article 5221b—10.

Approved May 15, 1943.
Effective July 1, 1943.

Repeal of conflicting acts see articles
5221b—17a, 5221b—24.

Art. 5221b—12. Collection of contributions

(a) Interest and penalties on past due contributions: If any employer subject to the provisions of this Act shall fail to pay contributions due under this Act on the date on which they are due and payable as prescribed by the Commission, such employer shall forfeit to the State of Texas a penalty of one (1%) per centum thereof, and after the expiration of one (1) month such employer shall forfeit an additional penalty

of one (1%) per centum thereof, for each month or fraction thereof, until such contributions and penalties shall have been paid in full; provided, however, that the penalties applicable to the contributions due for any period (as prescribed by the regulations of the Commission) shall not at any time from and after the enactment of this bill exceed twenty-five (25%) per centum of the amount of contributions due at due date, nor shall penalties in excess of twenty-five (25%) per centum of the amount of contributions due at due date be collected on any contributions now due and owing for any period (as prescribed by the regulations of the Commission) unless such contributions and penalties have, at the time of the enactment of this bill, been reduced to final judgment or paid.

(b) Collections: If, after due notice, any employer defaults in any payment of contributions, penalties 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; provided, however, that no court action shall be begun to collect contributions or penalties from an employer after the expiration of three (3) years from the due date of such contributions, except that, in any case of a willful attempt in any manner to evade any of the provisions of the unemployment compensation law¹ or Commission rules and regulations promulgated thereunder, such action may be begun at any time. The three year period of limitation herein prescribed shall apply to court action for collection of contributions and penalties due at the time of the enactment of this bill, except that a period of six (6) months from the date of enactment of this bill shall be allowed for the beginning of any action for the collection of contributions more than three (3) years past due as of the date of enactment of this bill, together with the penalties which may be due thereon, not exceeding twenty-five (25%) per centum of the amount of contributions due at due date, and except that the three (3) year period of limitation herein prescribed shall not be applicable to suits pending at the time of the enactment of this bill for the collection of contributions and penalties past due.

(c) If any employer shall (a) fail to keep any of the records required to be kept by the provisions of this Act, or (b) shall fail to make any reports to the Commission, required herein to be made, or required by regulations of the Commission to be made, or (c) make a false or incomplete report to the Commission, or (d) fail or refuse to abide by the provisions hereof, or the Rules and Regulations promulgated hereunder, or violate the same, he shall forfeit to the state as a penalty the sum of not less than Twenty-five (\$25.00) Dollars, nor more than Five Hundred (\$500.00) Dollars. Each day's violation shall constitute a separate offense and incur another penalty, which if not paid may be recovered in a suit by the Attorney General in a court of competent jurisdiction in Travis County, Texas.

(d) If any employer fails or refuses to pay any contributions, penalties or interest within the time and manner provided by this Act, or by the rules or regulations adopted by the Commission hereunder, and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceeding, any report filed in the offices of the Texas Unemployment Compensation Commission by such employer or his agents or representatives, or a certified copy thereof certified to by the Chairman or any member of said Commission, or the Chief Accountant of said Commission, showing the amount of wages paid by such employer or his agents or representatives, with respect to which contributions, penalties, or interest have not been paid, or any audit made by the Texas Unemployment Compensation Com-

mission or its representatives from the books of such employer when signed and sworn to by such representatives as being made from the records of said employer, 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.

(e) In the event the Attorney General shall file suit or a claim for contributions, penalties or interest, as provided in this Act, and attach or file as an exhibit any report or audit of such employer, and an affidavit made by any member of the Texas Unemployment Compensation Commission, or any representative of the Commission, that the contributions, penalties or interest 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 provided by Article 3736, Revised Civil Statutes of Texas of 1925, as amended by Chapter 239, Acts of the Regular Session of the 42nd 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 contributions, penalties or interest hereunder.

(f) All contributions, penalties, and interest due by any employer to the fund shall become a lien upon all the property both real and personal of any employer, used by such employer in performing or aiding in the performance of the service which his employees have contracted to perform on his behalf. Such lien shall attach at the time any contributions or penalties or interest become delinquent as provided herein.

(g) If any employer shall fail to remit proper contributions when due, or if any employer shall fail to make such reports to the Commission as are required by this Act, or, as are required by the Regulations adopted by the Commission pursuant to authority granted in this Act, the Commission may employ auditors or other persons to ascertain the correct amount of contributions due and to prepare the correct reports due, and if such contributions have not been properly remitted, or, if such reports have not been properly made, the employer shall pay the reasonable expenses incurred in such investigation which shall be paid as an additional penalty, and such additional penalty may be collected by the Commission in the manner prescribed in this Section; provided that nothing herein shall prevent the Commission from using other funds available to it for the purpose of making audits and preparing or assisting in preparing reports of employers when the Commission determines that such action is necessary.

(h) Whenever any suit shall be instituted on behalf of the Commission, or at the request of the Commission under this Section or under Section 17 of the Act,² the costs adjudged against the state or the Commission shall be paid by the Commission out of the administrative fund herein provided for. All such costs as are chargeable against the Commission shall be paid by the Commission to the officers of the courts of Texas at the time that the same become due under the provisions of the General Laws of this State.

(i) 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 proceedings, contributions then or thereafter due shall be entitled to the same priority as is now accorded by the General Laws of the State of Texas to other tax claims.

(j) Where any employing unit has made a payment to the Commission of contributions alleged to be due, and it is later determined that

such contributions were not due, in whole or in part, the employing unit making such payment may make application to the Commission for an adjustment thereof in connection with contribution payments then due, or for refund thereof because such adjustment cannot be made, and if the Commission shall determine that such contributions or penalty, or any portion thereof were erroneously collected, the Commission shall allow such employing unit to make an adjustment thereof without interest in connection with contribution payments then due by such employing unit, or, if such adjustment cannot be made, the Commission shall refund said amount without interest from the Fund, provided that no application for adjustment or refund shall ever be considered by the Commission unless the same shall have been filed within four (4) years from the date on which such contributions or penalties would have become due, had such contributions been legally collectible by the Commission from such employing unit. For like cause, and within the same period, adjustment or refund may be so made on the Commission's own initiative.

(k) Whenever it shall appear that any individual or employing unit is violating or threatening to violate any of the provisions of this Act, or of any rule, regulation or order of the Commission promulgated under this Act, relative to the collection of contributions, penalties, or interest, of the filing of reports relative to employment, the Commission, through the Attorney General, shall bring suit in the name of the State of Texas against such employing unit or individual in any court of competent jurisdiction in the county of the residence of the defendant, or if there be more than one defendant, in the county of the residence of any of them, or in the county in which such violation is alleged to have occurred, to restrain such person or employing unit from violating such statute, or such rules, regulation or order of the Commission or any part thereof, and in such suit the Commission in the name of the State of Texas may obtain such injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions, as the facts may warrant.

The violation by any person or employing unit of any injunction granted under the provisions of this Act shall be sufficient grounds for the appointment by the court, either upon its own motion or that of the Commission in the name of the State of Texas, of a receiver to take charge of such properties of such person or employing unit and to exercise such powers as in the judgment of the court shall be necessary in order to bring about compliance with such injunction; provided, however, that no such receiver shall be appointed except after notice and hearing. The power to appoint a receiver as herein provided shall be in addition to and cumulative of the power to punish for contempt. As amended Acts 1943, 48th Leg., p. 572, ch. 339, § 1.

¹ Article 5221b—1 et seq.

² Article 5221b—15.

Approved and effective May 15, 1943.

Section 2 of the amendatory Act of 1943 read as follows: "The provisions of this Act shall repeal all parts of Section 14 of Chapter 482, Acts of the 44th Legislature, Third Called Session, as amended, in conflict herewith, and all laws or parts of laws in conflict herewith, insofar as they do conflict herewith, but shall in no way be construed as forfeiting or waiving rights to collect contributions that have accrued under said Chapter 482, as amended, or pen-

alties, not exceeding twenty-five (25%) per centum of the amount of contributions due at due date, that have accrued under said Chapter 482, as amended, nor the right of prosecution for violating any provision thereof."

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

Repeal of conflicting acts see articles 5221b—17a, 5221b—24.

Art. 5221b—17. Definitions

As used in this Act,¹ unless the context clearly requires otherwise:

(a) (1) "Base period" means the first four (4) out of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

(2) "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 day on which the first valid claim for benefits is filed, and thereafter the fifty-two consecutive week period beginning with the day on which his next valid claim for benefits is filed 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. 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 of 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 sub-section;

(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 sub-section:

(5) Any employing unit which, having become an employer under Paragraphs (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 (b) any other employing unit which has elected to become fully subject to this Act.

(g) (1) "Employment" means any service performed prior to October 1, 1941, which was employment as defined in this Section prior to such date, and subject to the provisions of this subsection, services performed on and after October 1, 1941, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied, provided that any 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 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.

(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) (A) Service not covered under Paragraph (2) of this sub-section 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, 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.

(B) Services covered by reciprocal agreements authorized by this Act between the Commission and the agency charged with the administration of any other state or Federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, shall be deemed to be employment, if the Commission has approved an election of the employing unit for whom such services were performed pursuant to which the entire service of such individual during the period covered by such election is 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 individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) The term "employment" shall not include:

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

(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 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 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;

(C) Agricultural labor;

(D) Domestic service in a private home, local college, club, or local chapter of a college fraternity or sorority;

(E) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(F) 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;

(G) 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 the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

(H) Service performed in any calendar quarter in the employ of any organization exempt from income tax under Section 101 of the Internal Revenue Code,⁴ if (i) the remuneration for such service does not exceed Forty-five (\$45.00) Dollars, or (ii) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the Home Office, or is ritualistic service in connection with any such society, order, or association, or (iii) such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;

(I) Service performed in the employ of this state or of any other state, or of any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by this state or by one or more states or political subdivisions; and any service performed in the employ of any instrumentality of this state or of one or more states or political subdivisions to the extent that the instrumentality is with respect to such service, exempt under the Constitution of the United States from the tax imposed by Section 1600 of the Federal Internal Revenue Code;⁵

(J) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual; and (ii) eighty-five (85%) per cent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(K) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (i) admission to membership in such association is limited to individuals who are officers or employees of the United States Government; and (ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

(L) Service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under Section 101 of the Federal Internal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed Forty-five (\$45.00) Dollars (exclusive of room, board and tuition);

(M) Service performed in the employ of a foreign government (including wages as a consular or other officer or employee, or a non-diplomatic representative);

(N) Service performed in the employ of an instrumentality wholly owned by a foreign government (i) if the service is of a character similar to that performed in foreign countries by the employees of the United States Government or of an instrumentality thereof; and (ii) if the Commission finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(O) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an interne in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

(P) Service performed by an individual for a person as an insurance agent or an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(Q) Service performed by an individual under the age of eighteen (18) years in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(R) Service covered by an arrangement between the Commission and the agency charged with the administration of any other state or Federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election are deemed to be performed entirely within such agency's state or under such Federal law.

(S) Included and Excluded Service. If the services performed during one-half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this sub-section the term "pay period" means a period (of not more than thirty-one (31) consecutive

days) for which a payment of remuneration is ordinarily made to the individual by the person employing him. This sub-section shall not be applicable with respect to services performed in any pay period by an individual for the person employing him, where any of such service is excepted by Section 19 (g) (5) (B).

(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 unemployed" in any benefit period of less than full time work if his wages payable for such benefit period fail to equal Four (\$4.00) Dollars more than the 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 benefit period during which he performs no services and with respect to which no wages are payable to him. An individual's benefit period of total unemployment shall be deemed to commence only after his registration pursuant to Section 4(a) of this Act.⁶ As used in this sub-section (l) and sub-section (j), the term "wages" shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of Six (\$6.00) Dollars in any one benefit period, 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 Six (\$6.00) Dollars in any one benefit period 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) "Valid Claim" means a claim for benefits by an individual who has earned qualifying wages as provided in Section 4(d) of this Act.⁶

(o) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration 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 paid him by his employing unit. The reasonable cash value of all remuneration 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; providing, however, that after October 1, 1941, the term "wages" shall not include:

(1) That part of the remuneration which, after remuneration equal to Three Thousand (\$3,000.00) Dollars has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year;

(2) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employee (i) has not the option

to receive, instead of provision for such death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

“(3) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under Section 1400 of the Internal Revenue Code⁷ or (B) of any payment required from an employee under a state unemployment compensation law; or

“(4) Dismissal payments which the employer is not legally required to make.

“(p) “Week” means such period of seven (7) consecutive calendar days as the Commission may prescribe.

“(q) “Benefit amount”: An individual’s “benefit amount” means the amount of benefits he would be entitled to receive for one benefit period of total unemployment.

“(r) “Benefit Period”: An individual’s “benefit period” means such period of fourteen (14) consecutive calendar days as the Commission may by regulation prescribe. As amended Acts 1943, 48th Leg., p. 585, ch. 343, § 7.

¹ Article 5221b—1 et seq.

² Article 5221b—6.

³ Article 5221b—9.

⁴ 26 U.S.C.A. § 101.

⁵ 26 U.S.C.A. § 1600.

⁶ Article 5221b—2.

⁷ 26 U.S.C.A. § 1400.

Approved May 15, 1943.
Effective July 1, 1943.

Repeal of conflicting acts see articles
5221b—17a, 5221b—24.

TITLE 86—LANDS—PUBLIC

CHAPTER TWO—SURVEYORS AND SURVEYS

3. SURVEYS AND FIELD NOTES.

Art.

5300a. Texas Co-ordinate System; zones; descriptions of lands [New].

1. LICENSED LAND SURVEYORS

Art. 5280. County Surveyor alone authorized to record field notes and documents in County Surveyor's records; exceptions; fees; access to records; examination fees

In cases where a county has a County Surveyor, such Surveyor alone shall be authorized to file and record field notes and plats of all surveys made in his county, and other documents subject by law to being recorded in the County Surveyor's records, and issue Certificates of Fact and certify the correctness of copies of any document or record or entry shown by the records of a County Surveyor, provided, however, that when a County Surveyor or his authorized deputy or deputies are absent from his office, the County Clerk of the county shall have free access to the County Surveyor's office and public records, and shall, in such event, be authorized to record field notes, plats, and other documents subject to being recorded in the County Surveyor's records, and issue Certificates of Fact and certify the correctness of copies of any document or record or entry shown on the official records of the County Surveyor; and provided further that in cases where a county has no County Surveyor, the County Clerk of the county shall be the legal custodian of the Surveyor's records, and is authorized to make all such certificates and certify such copies as a legally authorized County Surveyor may make.

The fees for recording documents in the Surveyor's records and issuing certificates and making certified copies shall be such as are now provided by law. The County Surveyor shall be entitled to fees for all documents recorded by him or his deputies, and for all certificates and certified copies issued by him or his deputies, and the County Clerk shall be entitled to all fees for documents recorded by him and for all certificates and certified copies issued by him under the provisions of this law.

All licensed State Land Surveyors shall, for the purpose of information and examination, have access to the records of County Surveyors, and no examination fees shall be charged in cases where an investigation of the records is being made with a view to making surveys of public lands under the laws regulating the sale or lease of the same or of identifying and establishing the boundaries thereof. All examinations shall be made under such regulations as may be provided by the County Surveyor or the Commissioners Court for the safe-keeping and preservation of the records. Examination fees for other purposes shall not exceed One Dollar (\$1) an hour, and fees for copies shall not exceed Thirty-five (35) Cents for one hundred words. As amended Acts 1943, 48th Leg., p. 213, c. 133, § 1.

Approved and effective April 12, 1943.
Section 3 of the amendatory Act of 1943 read as follows: The fact that many County Surveyors of the State of Texas have joined the armed forces of the United States and are absent from their offices, making it difficult, in many instances, to secure certified copies of instruments on record in their offices, the present Article

5282 of Senate Bill No. 351 may be construed as requiring the holder of a valid license as a "Licensed State Land Surveyor" issued under former law to stand and pass the examination provided for in Senate Bill No. 351, whereas it was not the intention of the Legislature to impose such requirement, and the fact that the validity of surveys made by such surveyors

may be questioned, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days in each House be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Art. 5282. Examinations and licenses

No person shall be authorized to perform the duties of a licensed State Land Surveyor without first standing and passing the examination herein provided for, and obtaining a license as provided by this Act.

Provided, however, that no Surveyor holding a license as a "Licensed State Land Surveyor" issued under former law shall be required to stand and pass the examination provided for by this Act, and the authority of such Surveyor to act as a "Licensed State Land Surveyor" shall not be questioned by reason of his failure to stand and pass said examination. As amended Acts 1943, 48th Leg., p. 213, ch. 133, § 2.

Approved and effective April 12, 1943.

3. SURVEYS AND FIELD NOTES

Art. 5300a. Texas Co-ordinate System; zones; descriptions of lands

Section 1. The system of plane rectangular co-ordinates which has been established by the United States Coast and Geodetic Survey for defining and stating the positions or locations of points on the surface of the earth within the State of Texas is hereby adopted and will be known and designated as the "Texas Co-ordinate System."

For the purpose of the use of this System the State is divided into five zones: the "North Zone," the "North Central Zone," the "Central Zone," the "South Central Zone," and the "South Zone."

The area now included in the following Counties shall constitute the North Zone:

Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler.

The area now included in the following Counties shall constitute the North Central Zone:

Andrews, Archer, Bailey, Baylor, Borden, Bowie, Callahan, Camp, Cass, Clay, Cochran, Collin, Cooke, Cottle, Crosby, Dallas, Dawson, Delta, Denton, Dickens, Eastland, Ellis, Erath, Fannin, Fisher, Floyd, Foard, Franklin, Gaines, Garza, Grayson, Gregg, Hale, Hardeman, Harrison, Haskell, Henderson, Hill, Hockley, Hood, Hopkins, Howard, Hunt, Jack, Johnson, Jones, Kaufman, Kent, King, Knox, Lamar, Lamb, Lubbock, Lynn, Marion, Martin, Mitchell, Montague, Morris, Motley, Navarro, Nolan, Palo Pinto, Panola, Parker, Rains, Red River, Rockwall, Rusk, Scurry, Shackelford, Smith, Somervell, Stephens, Stonewall, Tarrant, Taylor, Terry, Throckmorton, Titus, Upshur, Van Zandt, Wichita, Wilbarger, Wise, Wood, Yoakum, and Young.

The area now included in the following Counties shall constitute the Central Zone:

Anderson, Angelina, Bastrop, Bell, Blanco, Bosque, Brazos, Brown, Burleson, Burnet, Cherokee, Coke, Coleman, Comanche, Concho, Coryell, Crane, Crockett, Culberson, Ector, El Paso, Falls, Freestone, Gillespie, Glasscock, Grimes, Hamilton, Hardin, Houston, Hudspeth, Irion, Jasper, Jeff Davis, Kimble, Lampasas, Lee, Leon, Liberty, Limestone, Llano, Loving, McLennan, McCulloch, Madison, Mason, Menard, Midland, Milam, Mills, Montgomery, Nacogdoches, Newton, Orange, Pecos, Polk, Reagan, Reeves, Robertson, Runnels, Sabine, San Augustine, San Jacinto, San

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Saba, Schleicher, Shelby, Sterling, Sutton, Tom Green, Travis, Trinity, Tyler, Upton, Walker, Ward, Washington, Williamson, and Winkler.

The area now included in the following Counties shall constitute the South Central Zone:

Aransas, Atascosa, Austin, Bandera, Bee, Bexar, Brazoria, Brewster, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Dimmit, Edwards, Fayette, Fort Bend, Frio, Galveston, Goliad, Gonzales, Guadalupe, Harris, Hays, Jackson, Jefferson, Karnes, Kendall, Kerr, Kinney, LaSalle, Lavaca, Live Oak, McMullen, Matagorda, Maverick, Medina, Presidio, Real, Refugio, Terrell, Uvalde, Val Verde, Victoria, Waller, Wharton, Wilson, and Zavala.

The area now included in the following Counties shall constitute the South Zone:

Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Nueces, San Patricio, Starr, Webb, Willacy, and Zapata.

Names to be used in land description

Sec. 2. (a) As established for use in the North Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, North Zone."

(b) As established for use in the North Central Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, North Central Zone."

(c) As established for use in the Central Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, Central Zone."

(d) As established for use in the South Central Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, South Central Zone."

(e) As established for use in the South Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, South Zone."

Terms of "x co-ordinate" and "y co-ordinate" set up

Sec. 3. The plane rectangular co-ordinates of a point on the earth's surface, to be used in expressing the position or location of such point in the appropriate zone, of this System, shall consist of two distances, expressed in feet and decimals of a foot. One of these distances, to be known as the "x co-ordinate," shall give the position in an east-and-west direction; the other, to be known as the "y co-ordinate" shall give the position in a north-and-south direction. These co-ordinates shall be made to depend upon and conform to the plane rectangular co-ordinates of the triangulation and traverse stations of the United States Coast and Geodetic Survey within the State of Texas, as those co-ordinates have been determined by the said Survey.

Lands in more than one zone

Sec. 4. When any tract of land to be defined by a single description extends from one into another of the above co-ordinate zones, the positions of all points on its boundaries may be referred to either of such zones, the zone which is used being specifically named in the description.

Definition of Texas Co-ordinate System; units of measurement; use of stations

Sec. 5. For purposes of more precisely defining the Texas Co-ordinate System, the following definition by the United States Coast and Geodetic Survey is adopted:

The Texas Co-ordinate System, North Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes $34^{\circ} 39'$ and $36^{\circ} 11'$, along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian $101^{\circ} 30'$ west longitude and the parallel $34^{\circ} 00'$ north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

The Texas Co-ordinate System, North Central Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes $32^{\circ} 08'$ and $33^{\circ} 58'$, along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian $97^{\circ} 30'$ west longitude and the parallel $31^{\circ} 40'$ north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

The Texas Co-ordinate System, Central Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes $30^{\circ} 07'$ and $31^{\circ} 53'$, along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian $100^{\circ} 20'$ west longitude and the parallel $29^{\circ} 40'$ north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

The Texas Co-ordinate System, South Central Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes $28^{\circ} 23'$ and $30^{\circ} 17'$, along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian of $99^{\circ} 00'$ west longitude and the parallel $27^{\circ} 50'$ north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

The Texas Co-ordinate System, South Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes $26^{\circ} 10'$ and $27^{\circ} 50'$, along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian $98^{\circ} 30'$ west longitude and the parallel $25^{\circ} 40'$ north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

The unit of measurement in this Act shall have the following values, based on the International Meter established by the National Bureau of Standards:

1 meter = 39.37 inches exactly

1 foot = 12.00 inches exactly

1 vara = $33\frac{1}{3}$ inches exactly

The position of the Texas Co-ordinate System shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the United States Coast and Geodetic Survey for first-order and second-order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927, and whose co-ordinates have been computed on the system herein defined. Any such station may be used for establishing a survey connection with the Texas Co-ordinate System.

Use of term "Texas Co-ordinate System" limited

Sec. 6. The use of the term "Texas Co-ordinate System" on any map, report or survey, or other document, shall be limited to co-ordinates based on the Texas Co-ordinate System as defined in this Act.

Purpose of act

Sec. 7. The sole and only purpose of this Act is to recognize the above system for use in the State of Texas as definitely ascertaining positions on the surface of the earth. Nothing in this Act shall in any manner whatsoever require the use of such system. The provisions of this Section shall control over all other portions of this Act, anything in such other portions to the contrary notwithstanding; and nothing in this Act shall be construed to set aside or disturb any corner or survey now already established. Acts 1943, 48th Leg., p. 611, ch. 354.

Approved and effective May 15, 1943.

Section 8 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

United States Coast and Geodetic Survey, see 33 U.S.C.A. § 851 et seq.

Title of Act:

An Act to describe, define, and officially name a system of Co-ordinates for designating the positions of points on the surface of the earth within the State of Texas, to be known as the "Texas Co-ordinate System"; dividing the State into five zones; establishing names to be used in land description in each zone; setting up terms of "x co-ordinate" and "y co-ordinate" which shall depend and conform to co-ordinates of the triangulation and traverse stations of the United States

Coast and Geodetic Survey within the State of Texas; making provision for reference to boundaries of land extending from one into another of the co-ordinate zones; adopting the definition by the United States Coast and Geodetic Survey of the Texas Co-ordinate System; setting out values of units of measurement; providing for the use of stations established in conformity with standards adopted by the United States Coast and Geodetic Survey for first-order and second-order work; limiting the use of the term "Texas Co-ordinate System"; prescribing limitations on the purpose of this Act, and providing that it shall not be construed as to set aside or disturb any existing survey or corner; and declaring an emergency. Acts 1943, 48th Leg., p. 611, ch. 354.

CHAPTER FOUR—OIL AND GAS**1. UNIVERSITY AND OTHER LANDS****Art.**

5341c. Suspension of running of terms of leases while owner is denied access by United States [New].

Art.

5341d. Extension of leases on University land; war agency restrictions [New].

1. UNIVERSITY AND OTHER LANDS

Art. 5341c. Suspension of running of terms of leases while owner is denied access by United States

Section 1. If the owner of any valid oil and gas lease granted by the State is denied access to or is denied a permit to drill upon or produce from the leased premises by any duly constituted authority of the United States of America, after a bona fide attempt has been made by such owner to obtain access or permit to drill upon or produce from the leased premises, such owner may file with the School Land Board an application describing and giving the date of the action which deprives him of the right of access or the right to drill upon or produce from the premises, and if said Board is satisfied that the facts set forth in the application are true, the Board may enter an order upon its minutes suspending the running of both the primary and the principal term of such lease, or suspending any condition, obligation or duty thereunder as of the date of the origin of

the cause of suspension and during the existence of the cause of suspension, so long as the lessee continues to make on each anniversary date of such lease the annual rental payments stipulated in the lease during the period of suspension. Such oil and gas lease shall remain in status quo, and all obligations and conditions existing under such lease or such of them as may be suspended by said Board, shall be inoperative and of no force and effect, except the obligation to pay delay rentals as provided for herein, until ninety (90) days after the School Land Board shall enter an order upon its minutes reciting that the cause for suspension has ceased to exist, at which time such oil and gas lease shall, provided the rental payments have been made during the period of suspension, again become operative and all of the suspended obligations and conditions, including the payment of rentals under same, shall again attach and be in force, and in the case of the suspension of the primary and/or principal terms of the lease, the lease shall thereafter continue in force for a period equivalent to the unexpired term of the lease on the date of origin of the cause for suspension. The Commissioner of the General Land Office shall give notice immediately to the lessee of the entry of the order that the cause for suspension has ceased to exist; provided, however, that the annual rental payments have been met.

Sec. 2. Nothing contained herein shall be construed as abridging any rights or privileges conveyed by Chapter 287, Acts of the Forty-seventh Legislature, Regular Session.¹ Acts 1943, 48th Leg., p. 248, ch. 149.

¹ Article 5366a.

Approved and effective April 20, 1943.

Section 3 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the suspension of the running of the primary and principal terms of certain State leases by the School Land Board in certain instances, establishing conditions of and procedure governing the making and granting of applications for such suspension, providing for the suspension of any condi-

tion, obligation or duty under such leases, fixing the duration of such suspension and providing for the termination thereof and for the extension of the primary and/or principal terms of such leases, after the termination of such suspension, for a period equivalent to the period of suspension; providing for notice of termination of the period of suspension; preserving rights and privileges acquired under Chapter 287 of the Acts of the Forty-seventh Legislature, Regular Session; and declaring an emergency. Acts 1943, 48th Leg., p. 248, ch. 149.

Art. 5341d. Extension of leases on University land; war agency restrictions

Section 1. In the case of any non-producing oil, gas or mineral lease on University land, if one hundred twenty (120) days before expiration of the primary term there be in effect any restrictions issued by a Federal war agency prohibiting the drilling or completion of a well thereon, the holder of such lease shall have the right to negotiate an extension or renewal of such lease for a period of not longer than two (2) years with the Board of Regents of the University of Texas and the Commissioner of the General Land Office.

The Board of Regents of the University of Texas and the Commissioner of the General Land Office, in considering an application for an extension or renewal of any such lease above described, shall take into consideration in establishing the consideration for such lease the diligence with which the lessee has followed his duties under the existing lease, the present value of the land upon which an extension or renewal of the lease is sought, and all other good business practices. The lessee in presenting his application for extension or renewal of such lease or leases shall present evidence to the Board of Regents of the University of Texas and to the Commissioner of the General Land Office showing it was impossible for

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

him or any of his co-owners to comply with the restrictions which he claims prohibited the drilling or completion of the well on said tract.

If the lessee should claim as grounds for an extension or renewal of any such lease that there is insufficient acreage within the tract under lease by him to comply with the Federal restriction then no extension or renewal shall be granted unless said lessee also show that there is no adjacent and adjoining acreage to said tract wherein said applicant is a party in interest that could have been combined with the tract upon which the application for extension or renewal is made in order to comply with the Federal restriction.

Sec. 2. The Commissioner of the General Land Office is hereby authorized to issue to the lease owner such instrument in writing in the nature of an extension or renewal of such lease as may be necessary or proper to carry into effect the foregoing provision of this Act.

Sec. 3. The provisions of this Act are and shall be held and construed to be cumulative of all General Laws of this state on the subject treated of and embraced in this Act when not in conflict herewith, but in case of conflict, in whole or in part, this Act shall control.

Sec. 4. If any section, subdivision, paragraph, sentence, or clause of this Act be held to be unconstitutional, the remaining portions of same shall nevertheless be held valid and binding. Acts 1943, 48th Leg., p. 359, ch. 238.

Approved and effective May 6, 1943.

Section 5 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing the procedure for extension or renewal of oil, gas and mineral leases granted by the State

of Texas on University lands where Federal or State restrictions were in effect one hundred twenty (120) days before the expiration of the primary term prohibiting the owner of such lease from drilling or completion of a well; repealing all laws in conflict, and declaring an emergency. Acts 1943, 48th Leg., p. 359, ch. 238.

2. GULF LANDS

Art. 5366a. Extension of oil and gas leases on areas covered by coastal waters or within Gulf

Privileges hereunder not affected by article 5341c relating to suspension of running of terms of leases, see article 5341c.

CHAPTER SEVEN—GENERAL PROVISIONS

Art.

5415b. Adjacent territory acquired under convention between United States and Mexico; acceptance by State; inclusion in counties and water

Art.

improvement or conservation districts. [New].

5421c—6. Patents validated [New].

Art. 5415b. Adjacent territory acquired under convention between United States and Mexico; acceptance by State; inclusion in counties and water improvement or conservation districts

Section 1. That the State of Texas hereby accepts the Act of Congress approved February 9, 1940 (H.R. 6124, 54 Stat. 21),¹ and hereby accepts as part of its territory, and hereby assumes civil and criminal jurisdiction over, all those certain parcels or tracts of land lying adjacent to the territory of the State of Texas which were acquired by the Government of the United States of America by virtue of the convention be-

tween the United States of America and the United Mexican States signed February 1, 1933.

Sec. 2. That all of said parcels or tracts of land acquired by the State of Texas in the manner stated in Section 1 of this Act, shall constitute and form part of the respective counties within whose boundaries they shall lie, by extending the present county boundary lines to the Rio Grande, and said parcels or tracts of land shall be subject to the civil and criminal jurisdiction of said counties; and any of such parcels or tracts of land that may lie partly in one county and partly in another county, shall be surveyed by the county surveyors of both counties, whose duty it is to ascertain the portion of said parcels or tracts of land that lie within the jurisdiction of their respective counties, and they shall file the field notes of said lands in the county surveyor's office of their respective counties, together with a true map of said parcels or tracts of land, in the map records of the county; and for such purposes the boundary lines of said parcels or tracts of land as given by the American Section of the International Boundary Commission, United States and Mexico, shall be accepted as the true boundaries. It shall also be the duty of the county surveyors of the counties in this State, within whose boundaries said parcels or tracts of land shall lie, to report to the tax assessor of their respective counties the quantity of land thus acquired by their respective counties, within ninety (90) days after the effective date of this Act.

Sec. 3. That any of the parcels or tracts of land acquired by the State of Texas in the manner stated in Section 1 hereof, lying adjacent to, or contiguous to a water improvement district or conservation and reclamation district, formed and organized under the laws of Texas, may be included within such water improvement or conservation and reclamation district, by means of a written contract entered into between the owners of title to such land and the board of directors of such district, which said written contract shall specifically describe the land to be included in such district, the character of water service to be furnished to said land, and the terms and conditions upon which said lands are to be included within said district. When said contract shall have been executed by the owners of title to said land, and the board of directors of said district, the same shall be acknowledged by the parties, in the manner and form required in the acknowledgment of deeds, and same shall be recorded in the deed records of the county in which said lands are situated.

Sec. 4. Nothing in this Act contained shall be construed to affect the ownership of said lands. Acts 1943, 48th Leg., p. 278, ch. 175.

¹ Act Feb. 9, 1940, c. 22, 54 Stat. 21.

Approved and effective April 27, 1943.

Section 5 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act accepting certain parcels or tracts of land lying adjacent to the territory of the State of Texas, which were acquired by the Government of the United States of America by virtue of the convention between the United States of America and the United Mexican States signed February 1, 1933, and ceded by

the United States of America to the State of Texas by an Act of Congress approved February 9, 1940 (54 Stat. 21); providing for the extension of county lines to include said lands; providing for the surveying of said lands and for reports of such surveys; making provision for any portion of such land lying adjacent or contiguous to a water improvement or conservation district; providing nothing in the Act shall affect the ownership of the land; and declaring an emergency. Acts 1943, 48th Leg., p. 278, ch. 175.

Art. 5421c. Regulating sale and lease of school lands, public lands and river bed; Board of Mineral Development created

Prospecting land

Sec. 12. Any person or corporation desiring to prospect a tract of land belonging to the State for gold, silver, platinum, cinnabar, and other metallic ores and precious stones may file an application with the Commissioner of the General Land Office designating the area to be prospected, which must be accompanied by a rental payment of Ten (10) Cents per acre, and such applicant shall have a period of one year from date of filing such application within which to prospect the area designated. Within the period of said year he may file an application to lease the area designated for the purpose of mining gold, silver, platinum, cinnabar and other metallic ores and precious stones and remit Fifty (50) Cents an acre as first annual payment of rental on the lease and continue to make such payments from year to year for a period of five (5) years, unless some of the minerals mentioned herein shall be discovered sooner in paying quantities. On discovery of any such minerals, the payments of such rental shall cease. On the 20th day of each month the owner of the mine or mines shall pay the royalty due the State, which shall be one-sixteenth (1/16) of the value of the minerals sold or moved off the premises. Such payments shall be remitted to the Commissioner of the General Land Office and credited to the account of the Permanent School Fund. The leases shall be drawn and the mines operated in accordance with regulations prescribed by the Governor, Attorney General, and Commissioner of the General Land Office. As amended Acts 1943, 48th Leg., p. 453, ch. 301, § 1.

Amendment of 1943 to section 12 was approved and effective May 10, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 5421c—6. Patents validated

Section 1. All patents issued prior to the effective date of Article 5421-c as amended by House Bill No. 9 of the Forty-sixth Legislature, such effective date being September 21, 1939, by the authority of the State, under the seal of the State and of the Land Office, signed by the Governor and countersigned by the Commissioner of the General Land Office to parties who for a period of ten (10) years prior to the date of application for the patent had held and claimed the same in good faith, under the provisions of Section 5 of Chapter 271, Acts of the Forty-second Legislature Regular Session,¹ are hereby ratified and title validated and confirmed in such patentees, their heirs or assigns, subject only to the mineral reservation as contained in Section 4, Chapter 271, Acts of the Forty-second Legislature, Regular Session,² and without regard to whether or not such land was located within five (5) miles of a well producing oil or gas in commercial quantities at the time of such patent. Acts 1943, 48th Leg., p. 368, ch. 247, § 1.

¹ Section 5 of article 5421c.

² Section 4 of article 5421c.

Approved May 6, 1943.

Effective Oct. 1, 1943.

Section 2 of the Act of 1943 read as follows: "Nothing in this Act shall affect or apply to patents which are involved in pending litigation upon the effective date hereof nor to the title to the land involved in any suit to which the State is now a

party or may be a party prior to the effective date of this Act."

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

Title of Act:

An Act validating patents issued prior to the effective date of Article 5421-c as

amended by House Bill No. 9 of the Forty-sixth Legislature, such effective date being September 21, 1939, in the name and by the authority of the State, under the seal of the State and of the Land Office, signed by the Governor and countersigned by the Commissioner of the General Land Office, under the provisions of Section 5, Chapter 271, Acts of the Forty-second Legislature, Regular Session; providing the

Act shall not affect or apply to patents involved in litigation pending upon the effective date hereof, nor to the title to the land involved in any suit to which the State is now a party or may be a party prior to the effective date of this Act; and declaring an emergency and providing that the effective date of this Act shall be October 1, 1943. Acts 1943, 48th Leg., p. 363, ch. 247.

TITLE 89—LIBRARY AND HISTORICAL COMMISSION

Art. 5436. 5602-3 Powers and duties

(a) The Commission is authorized and empowered to purchase within the limits of the annual appropriation allowed by Act of the Legislature from time to time suitable books, pictures, etc., the same to be the property of the State. The Commission shall have power and authority to receive donations or gifts of money or property upon such terms and conditions as it may deem proper; provided, no financial liability is thereby entailed upon the State. It shall give advice to such persons as contemplate the establishment of public libraries, in regard to such matters as the maintenance of public libraries, selection of books, cataloging and library management. The Commission shall conduct library institutes and encourage library associations.

(b) The Commission shall have the power and authority to transfer books and documents to other libraries which are supported by State appropriation when, in the opinion of the Commission, such transfer would be desirable for the benefit of the Texas State Library, and provided further that such transfer shall be permanent or temporary as may be decided by the Commission. The Commission shall have further power to exchange duplicate books and documents or to dispose of such books and documents to any public library, state or local, when such books and documents are no longer needed by the Texas State Library. No books or documents which constitute the archives of the Texas State Library shall ever be affected by this Act. As amended Acts 1943, 48th Leg., p. 423, ch. 289, § 1.

Approved and effective April 27, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that

the Act should take effect from and after its passage.

TITLE 93—MARKETS AND WAREHOUSES

CHAPTER SEVEN—WEIGHTS AND MEASURES

Art. 5730. Legal standards

Units of measurement under "Texas Coordinate System" Act, see article 5300a.

Art. 5734. Weights per bushel; ton; cord

Wherever the articles hereinafter named shall be sold by the bushel, and no special agreement as to the measurement or weights thereof shall be made by the parties, the bushel shall consist of the following number of pounds: Barley, 48 pounds; shelled corn, 56 pounds; flax seed, 56 pounds; oats, 32 pounds; rye, 56 pounds; wheat, 60 pounds; cotton seed, 32 pounds.

The term "ton" shall be understood to mean a unit of 2,000 pounds avoirdupois weight. The term "cord" shall be understood to mean 128 cubic feet, or the contents of a space eight (8) feet long, four (4) feet wide, and four (4) feet high.

When the term "cord" is used in connection with wood intended for fuel purposes, it shall be understood to mean the amount of wood which is contained in a space of 128 cubic feet, when the wood is ranked and well stowed and one-half the kerf of the wood is included. As amended Acts 1943, 48th Leg., p. 322, ch. 206, § 1.

Filed without the Governor's signature,
 May 3, 1943.

Effective May 3, 1943.

Section 2 of the amendatory Act of 1943

repealed article 5735 and 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. 5735. Repealed. Acts 1943, 48th Leg., p. 322, ch. 206, § 2. Eff. May 3, 1943.

Arts. 5736b, 5736c. Penal provisions

Art. 5736c of Acts 1931, 42nd Leg. p. 375, ch. 287, § 1, was amended by Acts 1943, 48th Leg., p. 174, ch. 99. It is pub-

lished as Vernon's Ann.Pen.Code, art. 1057e.

CHAPTER EIGHT—MARKETING ASSOCIATIONS

Art. 5737. Declaration of policy

In order to promote, foster and encourage the intelligent and orderly production, cultivation and care of citrus groves and marketing through cooperation and to eliminate speculation and waste; and to make production and distribution of agricultural products as direct as can be effectively done between the producer and consumer; and to stabilize the production and marketing problems of agricultural products, this law is passed. As amended Acts 1943, 48th Leg., p. 601, ch. 346, § 1.

Approved May 15, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 4 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 5740. Purpose

An Association may be organized to engage in any activity in connection with the production, cultivation and care of citrus groves or the marketing or selling of agricultural products and citrus fruits produced by and marketed for its members, or in the harvesting, preserving, drying, processing, canning, storing, handling, shipping or utilization thereof, or the manufacturing or marketing of the by-products thereof; or in connection with the manufacturing, selling or supplying to its members of machinery, equipment or supplies; or in the financing of the above enumerated activities; or in any one or more of the activities specified herein. Provided, however, any such activities may extend to non-members and to the production, cultivation and care of lands owned or cultivated by them and their products limited by Article 5738 as heretofore amended. As amended Acts 1943, 48th Leg., p. 601, ch. 346, § 2.

Approved May 15, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Art. 5742. Powers

(a) To engage in any activity in connection with the production, cultivation and care of citrus groves and the marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling or utilization of any agricultural products produced or delivered to it by its members, or the production, manufacturing or marketing of the by-products thereof; or in connection with the purchase, hiring or use by its members of supplies, machinery or equipment; or in the financing of any such activities; or in any one or more of the activities specified in this Article. As amended Acts 1943, 48th Leg., p. 601, ch. 346, § 3.

Approved May 15, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES

CHAPTER ONE—GENERAL PROVISIONS

Art.

5769a. Honorable discharge; dishonorable discharge [New].

Art. 5765. 5764 Active and reserve

The militia of this State shall be divided into two (2) classes, the active and reserve militia. The active militia shall consist of organized and uniformed military forces of this State which shall be known as the Texas National Guard or the Texas State Guard as the case may be; the reserve militia shall consist of all those liable to service in the militia, but not serving in the Texas National Guard or the Texas State Guard. As amended Acts 1943, 48th Leg., p. 464, ch. 311, § 1.

Approved and effective May 12, 1943. the Act should take effect from and after
 Section 8 of the amendatory Act of 1943 its passage.
 declared an emergency and provided that

Art. 5766. 5765 Who are subject

Texas State Guard, this article inapplicable to, see article 5891a.

Art. 5769a. Honorable discharge; dishonorable discharge

At the termination of the appointment of an officer in the Military Forces of Texas and at the termination of any enlistment in such Forces, either for expiration of term or for any other cause, the person affected shall be furnished, on his request, a certificate of discharge which shall evidence that the discharge was honorable; provided, however, that, in any case where such termination is prescribed by a sentence of court martial so providing, a certificate of dishonorable discharge shall be issued and delivered to the person affected. Acts 1943, 48th Leg., p. 464, ch. 311, § 3.

Approved and effective May 12, 1943.

CHAPTER TWO—RESERVE MILITIA

Honorable discharge or dishonorable discharge from Military Forces of Texas, see article 5769a.

CHAPTER THREE—NATIONAL GUARD

ADJUTANT GENERAL

Art.

5793a—1. Veterans County Service Officer [New]

Honorable discharge or dishonorable discharge from Military Forces of Texas, see article 5769a.

ORGANIZATION

Arts. 5780, 5781, 5784.

Texas State Guard, this article inapplicable to, see article 5891a.

ADJUTANT GENERAL

Art. 5797. 5799 To issue certificates

Texas State Guard, this article inapplicable to, see article 5891a.

Art. 5798a—1. Veterans County Service Officer

Section 1. When the Commissioners Court of a county shall determine that a Veterans County Service Officer is a public necessity in the dispatch of the county business, it shall, by a majority vote of the full membership thereof, create and establish a Veterans County Service Office. The County Commissioners Court shall appoint such veterans to such service office and such assistant veterans to such service office as shall be deemed necessary by the County Commissioners Court. Such Veterans County Service Officer and/or Assistant Veterans County Service Officer, shall receive a salary not to exceed One Hundred Dollars (\$100) per month for the principal officer nor more than Fifty Dollars (\$50) per month fixed by the County Commissioners Court, to be paid in equal monthly installments out of the general funds of the county and all salaries, travel and other expenses of such office shall be paid on order of the Commissioners Court.

Appointment; term; qualifications

Sec. 2. Such Veterans County Service Officer and/or Assistant Veterans County Service Officer shall, if so appointed, serve for the remainder of the current county fiscal year during which they are appointed and thereafter shall be appointed for and serve for a term of two (2) years, unless sooner removed for cause. Such Veterans County Service Officer and such Assistant Veterans County Service Officer shall be qualified by education and training for the duties of such office. They shall be experienced in the law, regulations and rulings of the United States Veterans Administration controlling cases before them, and shall themselves have served in the active military, naval or other armed forces or nurses corps of the United States during the Spanish-American War, the World War, or the present war and have been honorably discharged from such service. Such persons shall have had at least two years' experience as a Service Officer in a nationally recognized veterans organization engaged in service work to veterans, as 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 County Commissioners Court, upon forms supplied by the Veterans State Service Officer of the State of Texas, which shall be certified to by the District and/or State Commander of the veterans organization to which such applicant shall belong and a certificate issued by the United States Veterans Administration showing that such 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 showing qualifications and supporting certificates shall be filed with the County Commissioners Court at or before the time said appointments are made, and the filing thereof shall be a condition precedent to such appointment.

Duties; fees forbidden

Sec. 3. The duty of the Veterans County Service Officer and/or the Assistant Veterans County Service Officer shall be to aid all residents of the county and/or counties providing for such officers 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 veterans 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 item or benefits to which they may be entitled to under the existing laws of the United States, or of any State, or such laws as may hereafter be enacted, pertinent thereto. It shall also be their duty to defeat all unjust claims that may come to their attention. No fees, either directly or indirectly, for any service rendered by such Veterans County Service Officer and/or Assistant Veterans County Service Officer shall be charged of applicant, nor shall they permit the payment of any fee by applicant to any third person for services that might be rendered by them.

Entry into records of institutions

Sec. 4. Said officers shall be given official entry into 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 in regard to any benefit to which such person may be entitled.

Joint employment by two or more counties

Sec. 5. The Commissioners Court of any county may make an arrangement or agreement with one or more other counties whereby all such counties, parties to the arrangement or agreement, may jointly employ and compensate a Veterans County Service Officer under the provisions of this Act, in which event the amount of compensation which would be paid by each such county under said agreement and the travel and other expenses which would be paid by each such county under said agreement, shall be expressly stipulated in said agreement and said office shall be created and said arrangement and agreement entered into and such officers appointed and employed by a majority vote of the full membership of the County Commissioners Court of the respective counties who are parties to said arrangement and agreement. Such counties may be parties to such arrangement or agreement regardless of whether or not they are contiguous to one or more of the other counties to said such arrangement or agreement. Acts 1943, 48th Leg., p. 557, ch. 330.

Approved May 14, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 6 of the Act of 1943 repealed all inconsistent acts and parts of acts.

Section 7 read as follows: "If any section, sentence, clause or part of this Act for any reason be held to be invalid, such decision shall not affect the remaining portion 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."

Section 8 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act empowering the Commissioners Court to create the office of Veterans County Service Office and authorizing the appointment by the Commissioners Court

of a Veterans County Service Officer and Assistant Veterans County Service Officers and other necessary personnel; defining the qualifications, authority and duties of such officers; authorizing the fixing of salaries of such officers and personnel by the Commissioners Court and providing that the salaries, travel and other expenses of such office may be paid out of the general funds of the county on order of the Commissioners Court; providing for the term of such officers and personnel; granting the right of such officers the official entry in the records of the eleemosynary and penal institutions of the State of Texas; authorizing the creation of such office and the employment of such officers and personnel and the fixing of salaries and payment of expenses jointly by agreement of one or more counties; repealing all laws and parts of laws in conflict; providing a saving clause; and declaring an emergency. Acts 1943, 48th Leg., p. 557, ch. 330.

COMMISSIONED OFFICERS

Art. 5800. 5802 Term

Texas State Guard, this article inapplicable to, see article 5891a.

Arts. 5802-5806.

Texas State Guard, this article inapplicable to, see article 5891a.

Arts. 5808-5810.

Texas State Guard, this article inapplicable to, see article 5891a.

NON-COMMISSIONED OFFICERS AND ENLISTED MEN

Art. 5819. 5820 Enlistment

Texas State Guard, this article inapplicable to, see article 5891a.

Arts. 5824, 5825.

Texas State Guard, this article inapplicable to, see article 5891a.

Art. 5827. 5826 Second lieutenants

Texas State Guard, this article inapplicable to, see article 5891a.

COMPENSATION AND PRIVILEGES

Art. 5838. 5839 Active state service

The Military Forces of this State, including the Texas State Guard, when called into active service of this State in time of war, insurrection, invasion, or imminent danger thereof, or in the prevention thereof, or in preparation against the same, or under the authority of either one or more of Articles 5830, 5831, 5832, 5833 and 5834 of the said Revised Civil Statutes, shall, during their time of service, be entitled to and shall receive the same pay and allowances, (except money allowances for clothing), as are now or may hereafter be established by the laws for the Army of the United States. As amended Acts 1943, 48th Leg., p. 464, ch. 311, § 4.

Approved and effective May 12, 1943.

Art. 5839. Repealed. Acts 1943, 48th Leg., p. 464, ch. 311, § 5. Eff. May 12, 1943

ARTICLES OF WAR

Art. 5858. 5860 Rules

Texas State Guard, application of Articles of War to, see article 5891a.

COURTS MARTIAL

Art. 5859. 5861 Evidence

Texas State Guard, procedure with respect to courts martial, see article 5891a.

CHAPTER FIVE—TEXAS DEFENSE GUARD [NEW]

Art.

5891b. Workmen's Compensation Insurance for members of Texas Defense Guard.

Art. 5891a. Organization authorized—Authority and name

Sec. 1(a). Whenever any part of the National Guard of this State is in active Federal service, the Governor is hereby authorized to organize and maintain within this State during such period, under such regulations as the Secretary of War of the United States may prescribe for their organization, standards of training, instruction and discipline, such military forces as the Governor may deem necessary to defend this State. Such forces shall be composed of officers appointed and commissioned and assigned by the Governor or under his authority, to hold office and assignment during the pleasure of the Governor, and such able-bodied male citizens of the State and such able-bodied residents of the State who shall have declared their intention to become citizens of the United States, as shall volunteer for service therein, supplemented, if necessary, by men of the reserve militia enrolled by draft or otherwise as provided by law. Provided that any male person (of any age over sixteen (16) years) who is otherwise qualified under the provisions of this Act and who has attained the age of sixteen (16) years may be appointed or enlisted in such State Guard unless he falls within one or more of the following categories in which event he shall not be eligible for such appointment or enlistment: 1. Minors whose affiliation with such State Guard has not been consented to, in writing, by their parents or guardians. 2. Persons who have been convicted of a felony and have not thereafter received a full pardon and restoration of civil rights. 3. Persons who have been expelled or dishonorably discharged from the military service of this or any other State or of the United States who do not produce the written consent to such appointment or enlistment on the part of the commanding officer of the organization from which such expulsion or discharge occurred and of the commanding officer who approved or issued the same. 4. Idiots, lunatics, vagabonds, confirmed drunkards, and persons addicted to the use of narcotic drugs. 5. Persons who, on examination, are determined to be physically or mentally incapable of performing the kind of military duty that may be required of them. 6. Persons whose moral character is known to be bad.

(b). Such forces shall be a part of the active militia and a component of the Military Forces of Texas and shall be additional to and distinct from the National Guard and shall be known as the Texas State Guard: Provided, however, that members of the Texas National Guard who are not at the time in Federal service may be used, under the authority of the Adjutant General, to command, instruct, train and administer all or any component of the Military Forces of this State, including such State Guard. As amended Acts 1943, 48th Leg., p. 464, ch. 311, § 2.

Organization. Rules and Regulations

Sec. 2(a). The Governor is hereby authorized to prescribe rules and regulations not inconsistent with the provisions of this Act governing the enlistment, organization, administration, uniforms, equipment, maintenance, command, training and discipline of such forces; provided such rules and regulations, in so far as he deems practicable and desirable,

shall conform to existing law governing and pertaining to the National Guard and the rules and regulations promulgated thereunder.

(b). Provided, however, that the following enumerated Articles of the Revised Civil Statutes of Texas shall not be applicable to the Texas State Guard, viz: Articles 5766, 5780, 5781, 5784, 5797, 5800, 5802, 5803 to 5806 inclusive, 5808 to 5810 inclusive, 5819, 5824, 5825, 5827, and Article of War numbered 1 which is contained in Article 5858 of the said Revised Civil Statutes of Texas, 1925. As amended Acts 1943, 48th Leg., p. 464, ch. 311, § 2.

Pay and Allowances

Sec. 3. Repealed. Acts 1943, 48th Leg., p. 464, ch. 311, § 7.

Disqualifications

Sec. 9. Repealed. Acts 1943, 48th Leg., p. 464, ch. 311, § 6.

Oath of Officers

Sec. 10. The Adjutant General of this State shall formulate a written form of oath of office for commissioned officers and for enlisted men of the Texas State Guard and all officers and enlisted men shall take and subscribe to such oath before entering upon the discharge of their military duties. Such oath shall conform, as nearly as may be appropriate, to the oath now prescribed for the officers and men of the Texas National Guard. The Adjutant General or any commissioned officer of the Military Forces of Texas may administer the oath of office. Members of such Forces who have heretofore taken the oath heretofore provided will not be required to take another oath. As amended Acts 1943, 48th Leg., p. 464, ch. 311, § 2.

Enlisted Men

Sec. 11. Persons shall be enlisted in the Texas State Guard for three (3) years unless sooner demobilized, mustered out, or discharged by authority of the Governor. It shall be the duty of the Governor to muster out or demobilize units of the Texas State Guard and the officers thereof, ratably and progressively, upon the release of the Texas National Guard units from active Federal service and return to their home stations, provided that the Governor shall in his judgment accomplish the mustering out and demobilization of Texas State Guard units in conjunction with the return of the National Guard units so as to preserve in any locality or area of the State or in the State as a whole, the proper defense of such areas; and provided further that upon the return of all of the Texas National Guard units to home stations, or, at any time, when the Governor shall determine that the continued maintenance thereof is not necessary, all or any remaining units of the Texas State Guard will be mustered out or demobilized. As amended Acts 1943, 48th Leg., p. 464, ch. 311, § 2.

Articles of War. Freedom from Arrest. Jury Duty

Sec. 12(a). Until and unless otherwise provided by regulations of the Secretary of War of the United States, the Articles of War as contained in Article 5858 of the Revised Civil Statutes of Texas, 1925, shall be applicable to the Texas State Guard except that Article of War numbered 1 shall not be so applicable. When it is so provided by said Secretary of War his regulations shall govern.

(b). The appointment of and the procedure with respect to courts martial within the Texas State Guard shall be governed by Articles 5859 to 5883, inclusive, of the Revised Civil Statutes of Texas, 1925, and the Articles of War aforesaid and such other rules and regulations as the Governor of Texas may from time to time prescribe; provided, however, that, in the

absence of any rules and regulations prescribed by the Governor that are to the contrary, or if the said Secretary of War shall so provide, the rules and regulations contained in the Manual for Courts Martial for the Army of the United States shall be observed, in so far as is practicable, in all matters affecting courts martial in the Texas State Guard; provided, further, that the Governor shall, before the use of courts martial for the trial of offenses in the Texas State Guard, prescribe and promulgate the limit or limits of punishment that may be administered by such courts.

(c). No officer or enlisted man of the Texas State Guard shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where he is ordered to attend for military duty. Every officer and enlisted man of such forces shall, during his service therein, be exempt from service upon any posse comitatus and from jury duty. As amended Acts 1943, 48th Leg., p. 464, ch. 311, § 2.

Amendment of 1943 to sections 1-3, 9-12 was approved and effective May 12, 1943.

Honorable discharge or dishonorable discharge from Military Forces of Texas, see article 5769a.

Section 7 of the amendatory Act of 1943 also repealed all conflicting laws and parts of laws.

Art. 5891b. Workmen's Compensation Insurance for members of Texas Defense Guard

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 payment of all costs of carrying 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. "Member" shall mean every person in the Texas Defense Guard. Provided that no person shall be classified as a "member" under this Act 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 or accepted by the Texas Defense Guard to make such an examination, and until, as a result of such examination, all physical defects existent at the time of the examination have been noted and recorded. After his separation, either by discharge, resignation, or otherwise from the Texas Defense Guard, no person shall be classified as a member under this Act or be entitled to any compensation benefits thereunder.

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 relatives named in Section 8a of Article 8306, Revised Civil Statutes of Texas of 1925, adopted in Section 5 of this law.

6. "Average weekly wages" shall mean such wages as would produce a maximum compensation rate of Twenty (\$20.00) Dollars per week; it being the intention of this section to set the compensation rate to be paid such injured members at a definite and fixed sum of Twenty (\$20.00) Dollars per week.

7. The terms "injury" or "personal injury" shall be construed to mean damage or harm to the physical structure of the body and such diseases or infections as naturally result therefrom.

8. The term "injuries sustained in the course of duty" shall mean all injuries sustained in Texas while in military training or while performing duty as a member of the Texas Defense Guard. The term "injuries sustained in the course of duty" as used in this law, shall not include:

(1) An injury caused by an Act of God, unless the member is at the time engaged in the performance of duties that subject him to a greater hazard from the Act of God responsible for the injury than ordinarily applies to the general public.

(2) An injury caused by the act of a third person intended to injure the member because of reasons personal to him and not directed against him as a member of the Texas Defense Guard, or because of his duties therein.

(3) An injury received while in a state of intoxication.

(4) An injury caused by the member's willful intention and attempt to injure himself, or to unlawfully injure some other person, but shall include all other injuries of all other kind and character having to do with and originating in the duties of the Texas Defense Guard.

9. Any reference to any member herein who has been injured shall, when the said member is dead, also include the legal beneficiaries, as that term is herein used, or the person to whom such compensation shall be payable.

Insurance available when

Sec. 3. After the effective date of this law any member, as defined in this law, who sustains an injury in the course of duty shall be paid compensation as hereinafter provided.

The State of Texas hereby insures members as herein provided.

As soon as there becomes available an appropriation to the Department made for the purpose of enabling the Department to provide the insurance contemplated under this law, the Department shall notify the Board and the date of such notice shall be the effective date of the insurance contemplated in this law. On the date of such notice to the Board, the Department shall notify the Adjutant-General of Texas that such insurance has become available and the Adjutant-General shall, as soon as practicable thereafter, publish, in the usual military manner, the fact that such insurance has become available to the Texas Defense Guard.

Exclusiveness of remedy; exemptions; assignments void

Sec. 4. Members and parents of minor members shall have no right of action against the Department or the State of Texas or other State Department or against other members of the Texas Defense Guard for damages for personal injuries, sustained in the course of duty, nor shall representatives or beneficiaries of deceased members have any right of action against those above mentioned for injuries resulting in death; but such members 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. 5. Unless otherwise provided herein Sections 6 as amended by Acts 1927, 40th Legislature, page 84, Chapter 60, Section 1; 7; 7b; 7c; 8; 8a; 8b; 9 as amended by Acts 1931, 42nd Legislature, page 303, Chapter 178; 10; 11; 11a, Acts 1927, 40th Legislature, page 41, Chapter 28, Section 1; 12; 12a; 12b; 12c; 12d as amended by Acts 1931, 42nd Legislature, page 260, Chapter 155, Section 1; 12e; 12f; 12i as amended by Acts of 1931, 42nd Legislature, page 259, Chapter 154, Section 1; 13; 14; 15; 15a; 16; 17; 19 as amended by Acts 1927, 40th Legislature, page 383, Chapter 259, Section 1, as amended by Acts 1931, 42nd Legislature, page 133, Chapter 90, Section 1; Acts 1931, 42nd Legislature, page 415, Chapter 248, Section 1, 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, 45th Legislature, are hereby adopted and shall govern in so far as applicable under the provisions of this law. 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", "subscriber", or "employer", or their equivalents appear in such Articles, they shall be construed to and shall mean "the Department."

Attorney's fees, contracts for

Sec. 6. For representing the interests of any claimant in any manner carried from the Board into the courts, it shall be lawful for the attorney representing such interests 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 ($\frac{1}{3}$) 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. 7. It is the purpose of this law that the compensation provided for shall be paid from week to week and as it accrues and directed to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein.

Physical examination; refusal to submit to; insanitary and injurious practices; procedure

Sec. 8. The Board may require any member claiming to have sustained injuries to submit himself for examination before such Board, or someone 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 member 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 member to submit to such examination shall deprive him of his rights 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 member 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 treatments or other remedial

treatments 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 injured member. No compensation shall be reduced or suspended under the terms of this section without reasonable notice to the member and an opportunity to be heard.

The Department shall have the privilege of having any injured member 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 member and convenient and accessible to him. The Department shall pay for such examination and the reasonable expense incident to the injured member in submitting thereto. The injured member shall have the privilege of having 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 member, 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 the 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; suits to set aside decisions

Sec. 9. All questions arising under this law, if not settled by the 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 the 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 or the county of his residence 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 liabilities of the parties thereto shall be determined by the provisions of this law and the suit of the injured member or other person suing on account of the death of such member 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. The Court shall, in either event, determine the issue 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 the 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 said copy of notice 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 such cause unless same is denied under oath by the opposing party therein. In case of recovery the amount thereof 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 twenty (20) days to institute and prosecute suit to set aside

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

the same, then said final ruling and decision shall be binding upon 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 paragraph and against the Department, and the Department shall fail or refuse to obey or comply with the same and shall fail or refuse to bring suit to set aside the same as in said paragraph 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 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.

Where the Board has made an award against the Department requiring the payment to an injured member or his beneficiaries of any weekly or monthly payments, under the terms of this law, and the Department shall thereafter refuse or fail, without justifiable cause, to continue to make such payments promptly as they mature, then the said injured member or his beneficiary 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 the 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 institution of the suit.

Records and reports of injuries

Sec. 10. The Department shall hereafter keep a record of all injuries fatal or otherwise, sustained by members in the course of duty. Within eight (8) days after the occurrence of an accident resulting in an injury to any member causing his absence from his accustomed work or duties for more than one (1) 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 member, 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 member and the character of his duties 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 such 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; doctor's certificates; enlistment forms; evidence

Sec. 11. The State Highway Department and the Adjutant General's Department are 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 Adjutant General's Department shall have authority to make and enforce such rules for the prevention of accidents and injuries as may be deemed necessary. The Adjutant General's Department shall keep on file for the benefit of the State Highway Department the original Doctor's Certificate for each member of the Texas Defense Guard, along with the original Enlistment Form filled in by each member. It shall be the duty of the Adjutant General's Department to preserve as part of its per-

manent records said Doctor's Certificates and said Enlistment Forms to which the State Highway Department will have access. Such Enlistment Forms and Doctor's Certificates or copies thereof certified to by the Adjutant General 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 Doctor's Certificate is a claimant for compensation benefits under the terms and provisions of this Act, and such records so admitted shall be prima facie as to the facts set out therein.

Award as evidence; certified copies of orders, awards, decisions or papers

Sec. 12. 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 in this state.

Upon 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 Fund; provided that the Department and the Adjutant General's 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.

Suits to set aside decisions; notice

Sec. 13. 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 9 of this law, file notice with said Board, and bring suit in the county where the injury occurred or the county of the claimant's residence to set aside said final ruling and decisions of the Board. However, in the event such suit is brought in any county other than the county where the injury occurred or the county of the claimant's residence, 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 or the county of claimant's residence, as the latter may elect. 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. 14. When an injured member has sustained an injury or injuries in the course of his duty 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 member is being paid compensation as provided in this law, and the Department is furnishing either hospitalization or medical treatment to such a member, the Board may, within its discretion, delay or postpone the hearing of his claim and no appeal shall be taken from any such order of delay or postponement made by the Board.

Expenditures authorized; statement of disbursements

Sec. 15. The Department is hereby authorized to expend for all costs, administrative expense, (other than salaries) charges, benefits, and awards, any funds appropriated for that purpose. A statement of the disbursements made by the Department under this law shall be included in reports made to the Governor and the Legislature as required by the Statutes.

Appeals to courts; clerk's duties

Sec. 16. 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 the date of filing such suit, 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 case the attorney preparing the judgment shall file the original and a copy of the same with a 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 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 (\$200.-00) Dollars.

Attorney General's duties

Sec. 17. The Attorney General of the State of Texas shall be the legal representative of the State Highway Department and is hereby given power and authority to bring and defend all suits and hearings necessary to carry out the purposes of this Act.

Expiration date of act

Sec. 18. This Act shall expire at twelve o'clock mid-night August 31, 1945, except as to liabilities already incurred under this Act on or before that date. To carry out the provisions of this Act from its effective date until September 1, 1943, there is hereby appropriated to the State Highway Department out of the General Revenue Fund of this state the sum of Fifteen Thousand (\$15,000.00) Dollars.

Partial invalidity

Sec. 19. 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 1943, 48th Leg., p. 541, ch. 326.

Approved and effective May 14, 1943.

Section 20 of the Act of 1943 read as follows: "All laws or parts of laws in conflict herewith are hereby expressly suspended to the extent of such conflict only."

Section 21 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 members of the Texas Defense Guard; defining certain words and terms; providing that the State Highway Department shall administer this Act with the assistance of the Adjutant General's Department; prescribing the powers and duties of the Industrial Accident Board and the State Highway Department and the Adjutant General's Department; adopting by reference certain legislative Acts relating to Workmen's Compensation Insurance; 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 Adjutant General's Department shall keep permanent records; providing the State Highway Department shall make reports to the Industrial Accident Board of injuries sustained by the members of the Texas Defense Guard; providing the State Highway Department expend any funds appropriated for the payment of all costs, administrative expense, (other than salaries) charges, benefits, and awards authorized by this law; providing claimant to mature entire claim under certain circumstances; providing for reports to the Governor and 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; providing for an appropriation; providing an expiration date for this Act; providing a savings clause; repealing all laws or parts of laws in conflict herewith to the extent of such conflict; and declaring an emergency. Acts 1943, 48th Leg., p. 541, ch. 326.

TITLE 99—NOTARIES PUBLIC**Art. 5949. 6002, 3503 Notary Public Act of 1943**

1. The Secretary of State of the State of Texas shall appoint a convenient number of Notaries Public for each county of the state. Such appointments may be made at any time, and shall be for a term ending on the 1st day of June of the next succeeding odd numbered year after such appointment.

2. To be eligible for appointment as Notary Public for any county, a person shall be at least twenty-one (21) years of age, and a resident of the county for which he is appointed; provided, that where such person resides within the limits of any incorporated city, town or village located in two counties, said person may be appointed Notary Public for either of such counties, but shall be authorized to act only in the county for which such appointment is made.

3. Any person desiring appointment as Notary Public shall furnish to the County Clerk of the county of residence of the applicant his name as it will be used in acting as such Notary Public, his post office address, and shall satisfy the Clerk that he is at least twenty-one (21) years of age and a resident of the County for which such appointment is sought. The names of all such persons shall be sent forthwith in duplicate by the County Clerk to the Secretary of State with the certificate of the County Clerk certifying that according to the information furnished him such person is eligible for appointment as Notary Public for such county. The Secretary of State shall act upon all such names submitted at the earliest practicable time and notify the County Clerk whether such appointment or appointments have been made. Upon receiving notice from the Secretary of State of any such appointment the County Clerk shall forthwith notify all persons so appointed to appear before him within ten (10) days from the date of such notice (but not before the first day of June of odd numbered years in the case of appointments for the term beginning on such date or re-appointments hereinafter provided for) and qualify as hereinafter provided. The appointment of any person failing to qualify within such ten (10) day period shall be void, and if any such person desires thereafter to qualify, his name shall be re-submitted in the same manner as hereinabove provided.

4. At the time of such qualification the County Clerk shall collect the fees allowed him by law for administering the oath and approving and filing the bond of such Notary Public, together with the fee allowed by law to the Secretary of State for issuing a commission to such Notary Public.

5. Immediately after the qualification of any such Notary Public the County Clerk shall forthwith notify the Secretary of State that such person has qualified and the date of such qualification, and shall remit with such notice the fee due the Secretary of State, whereupon, the Secretary of State shall cause a commission to be issued to each such qualified Notary Public, which commission shall be effective as of the date of qualification. All such commissions shall be forwarded to the County Clerk for delivery to such persons entitled to receive them. Nothing herein shall prevent any qualified Notary Public from performing the duties of his office from and after his qualification and before the receipt of his commission.

6. Any qualified Notary Public whose term is expiring may be re-appointed by the Secretary of State without the necessity of the County

Clerk re-submitting his name to the Secretary of State, provided such appointment is made in sufficient time for such Notary Public to re-qualify on the expiration date of the term for which he is then serving; and provided further, that if any such Notary has removed his residence to a county other than the one for which he was appointed, his office shall be automatically vacated, and if he desires to act as Notary Public in such other county his commission shall be surrendered to the Secretary of State and his name shall be submitted by the Clerk of such other county as hereinabove provided.

7. Any person appointed a Notary Public, before entering upon his official duties, shall execute a bond in the sum of One Thousand (\$1,000.-00) Dollars with two or more solvent individuals, or one solvent surety company authorized to do business in this state, as surety, such bond to be approved by the County Clerk of his county, payable to the Governor, and conditioned for the faithful performance of the duties of his office; and shall also take and subscribe the official oath of office which shall be endorsed on said bond with the certificate of the official administering the same. Said bond shall be deposited in the office of the County Clerk and shall not be void on the first recovery, and may be sued on in the name of the party injured from time to time until the whole amount thereof has been recovered. Any such person shall be deemed to be qualified when he has taken the official oath of office, furnished the bond and paid the fees herein provided for, all within the ten (10) days allowed therefor.

8. If any County Clerk fails or refuses to forward the names of persons requesting appointments, notices of qualification, or to remit any fees due to the Secretary of State, or to notify any applicant of his appointment within sixty (60) days after receipt of same by the County Clerk, the Secretary of State shall certify such failure or refusal to the State Comptroller, the County Auditor and Commissioners Court of such county, after which no claim or account in favor of such Clerk shall be approved or paid until the Secretary of State shall certify to such officials that all requirements hereunder have been complied with.

9. All matters pertaining to the appointment and qualification of Notaries Public shall be public records in the offices of the County Clerks and in the office of the Secretary of State after any such Notary Public has qualified, and shall be open to inspection of any interested person at such reasonable times and in such manner as will not interfere with the affairs of office of the custodian of such records; but neither a County Clerk nor the Secretary of State shall be required to furnish lists of the names of persons appointed before their qualification nor lists of unreasonable numbers of qualified Notaries Public. As amended Acts 1943, 48th Leg., p. 459, ch. 309, § 1.

Approved and effective May 12, 1943.

Section 2 of the amendatory Act of 1943 repealed articles 5950-5953 and all conflicting laws and parts of laws.

Sections 3 and 4 read as follows:

"Sec. 3. If any section, provision, sentence, clause, phrase or word of this Act or the application thereof to any person or circumstance is held invalid, 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 irrespective of such invalidity.

"Sec. 4. This Act may be known and cited as the Notary Public Act of 1943."

Section 5 declared an emergency and

provided that the Act should take effect from and after its passage.

Section 2 of the amendatory Act of 1941 read as follows: "Nothing in this Act shall affect the term of office of any person qualifying as a notary public prior to the effective date hereof." Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Sec. 2 of the Act of 1939, provided that nothing in the Act should affect the term of office of any person qualifying as a notary public prior to the effective date hereof. Sec. 3 provided that the Act should become effective in the event and when the amendment to the Constitution of Texas proposed

by Senate Joint Resolution No. 6 of the Regular Session of the Forty-sixth Legislature becomes a part of the Constitution. In the event such proposed amendment does not become a part of the Constitution, the Act in its entirety should be null and void and should never be in force and effect. Section 4 declared an emergency and provided that the act should take effect from and after its passage.

Section 3 of Acts 1939, 46th Leg., p. 498, provided that acts 1939 amending this article should become effective with adoption of amendment to Constitution Art. IV, § 26, proposed by Senate Joint Resolution No. 6 of the Regular Session of the Forty-sixth Legislature, adopted at general election, Nov. 5, 1940.

Arts. 5950-5953. Repealed. Acts 1943, 48th Leg., p. 459, ch. 309, § 2.
Eff. May 12, 1943

Notary Public Act of 1943, see article 5949.

TITLE 102—OIL AND GAS

GENERAL PROVISIONS

Art. 6008. 7849 Production and use of natural gas

Interstate Compact to Conserve Oil and Gas as extended to Sept. 1, 1947, see article 6008—1 and notes thereto.

Art. 6008—1. Interstate Compact to Conserve Oil and Gas; Extension of Compact

Section 1. The Governor of the State of Texas is hereby authorized and empowered, for and in the name of the State of Texas, to execute an agreement with other States now members of the Interstate Oil Compact Commission, by the terms of which The Interstate Compact to Conserve Oil and Gas, executed in the City of Dallas, Texas, on the 16th day of February 1935, and now on deposit with the Department of State of the United States shall be extended for a period of four (4) years from its expiration date (September 1, 1943), subject to the approval of Congress.

Sec. 2. The Interstate Compact to Conserve Oil and Gas referred to in the above section and which was ratified, approved, and confirmed by Chapter 81 of the Acts of the Regular Session of the 44th Legislature of the State of Texas,¹ and which it is hereby proposed to extend by agreement subject to the approval of Congress, reads as follows:

“AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

“ARTICLE I.

“This agreement may become effective within any compacting State at any time as prescribed by that State, and shall become effective within those States ratifying it whenever any three (3) of the States of Texas, Oklahoma, California, Kansas and New Mexico have ratified, and Congress has given its consent. Any oil-producing State may become a party hereto as hereinafter provided.

“ARTICLE II.

“The purpose of this Compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

“ARTICLE III.

“Each State bound hereby agrees that within a reasonable time it will enact laws, or if laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

“(a) The operation of any oil well with an inefficient gas-oil ratio.

“(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas in paying quantities.

“(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

“(d) The creation of unnecessary fire hazards.

“(e) The drilling, equipping, locating, spacing, or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

“(f) The inefficient, excessive, or improper use of the reservoir energy in producing any well.

"The enumeration of the foregoing subjects shall not limit the scope of the authority of any State.

"ARTICLE IV.

"Each State bound hereby agrees that it will, within a reasonable time, enact Statutes, or if such Statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation Statutes or any valid rule, order, or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

"ARTICLE V.

"It is not the purpose of this Compact to authorize the States joining herein to limit the production of oil or gas for the purpose of establishing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

"ARTICLE VI.

"Each State joining herein shall appoint a representative to a Commission hereby constituted and designated as The Interstate Oil Compact Commission, the duty of which said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas; and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several States for adoption or rejection.

"The Commission shall have power to recommend the coordination of the exercise of the police powers of the several States within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said States, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

"No action shall be taken by the Commission, except: (1) by the affirmative votes of the majority of the whole number of the compacting States, represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting States at said meeting, such interest to be determined as follows: such vote of each State shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half year to the daily average production of the compacting States during said period.

"ARTICLE VII.

"No State by joining herein shall become financially obligated to any other State, nor shall the breach of the terms hereof by any State subject such State to financial responsibility to the other States joining herein.

"ARTICLE VIII.

"This Compact shall expire September 1, 1939. But any State joining herein may, upon sixty (60) days notice, withdraw herefrom.

"The representatives of the signatory States have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory States.

"This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing State may become a party

hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

"Done in the City of Dallas, Texas, this 16th day of February 1935.

"E. W. Marland

The Governor of the State of Oklahoma

"James V. Allred

The Governor of the State of Texas

"R. L. Patterson

For the State of California

"Frank Vesley

"E. H. Wells

"Hugh Burch

"Hiram M. Dow

For the State of New Mexico.

"The following representatives recommend to their respective Governors and Legislatures the ratification of the foregoing agreement:

"John W. Olvey of Arkansas

"Warwich M. Downing of Colorado

"William Bell of Illinois

"Gordon F. Van Eananaam

"Gerald Cotter of Michigan

"Ralph J. Pryor

"E. B. Shawyer

"T. C. Johnson of Kansas."

Sec. 3. The agreement to extend said Interstate Compact to Conserve Oil and Gas, and which the Governor of this State is hereby authorized and empowered to execute for and in the name of the State of Texas shall be in substance as follows:

"It is hereby agreed that the Interstate Compact to Conserve Oil and Gas executed in the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, be and the same is hereby extended for a period of four (4) years from its date of expiration (September 1, 1943), this agreement to become effective when executed by any three (3) of the states of Texas, Oklahoma, California, Kansas and New Mexico, and consent thereto is given by Congress."

Sec. 4. The Governor of Texas is authorized and empowered for and on behalf of the State of Texas to determine if and when it shall be for the best interest of the State of Texas to withdraw from said Compact upon sixty (60) days notice, as provided by the terms of the Compact. In the event he shall determine that this State should withdraw from said Compact, he shall have full power and authority to give necessary notice, and to take any and all steps necessary and proper to effect the withdrawal of the State of Texas from said Compact. Acts 1943, 48th Leg., p. 15, ch. 15.

¹ Article 6008 note.

Approved and effective Feb. 16, 1943.

Complementary Laws

Extension to Sept. 1, 1947: Resolution of Congress July 7, 1943, c. 194, 57 Stat. 383; Kansas Laws 1943, ch. 211.

Title of Act:

An Act providing for the execution of

an agreement to extend the Interstate Compact to Conserve Oil and Gas; prescribing the form of the agreement; prescribing procedure for withdrawal from the Compact; and declaring an emergency. Acts 1943, 48th Leg., p. 15, ch. 15.

Art. 6020a. Telegraph, telephone and electric lines; pipe lines; grants of rights of way over public lands and waters; penalty for unauthorized use

Section 1. The Commissioner of the General Land Office may execute grants of all easements for rights of way for telephone, telegraph, electric transmission and power lines, for oil pipe lines, gas pipe lines, sulphur pipe lines, and other electric and pipe lines of whatsoever nature, granted by this State, across all unsold Public Free School Land, and across all islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tidewater limits, and across that portion of the Gulf of Mexico within the jurisdiction of Texas. The Board of Regents of the University of Texas may continue to execute, under authority heretofore granted, all right-of-way easements for telephone, telegraph, electric transmission and power lines, for oil pipe lines, gas pipe lines, sulphur pipe lines, and other electric and pipe lines of whatever nature, across lands belonging to the State, and dedicated to the support and maintenance of the University of Texas. The Board of Regents of the University may continue to execute, under authority heretofore granted, easements or leases for the erection and maintenance of electric substations, pumping stations, loading racks, and tank farms on University Lands, and the Commissioner of the General Land Office may execute easements or leases for electric substations, for pumping stations, loading racks, and tank farms to be located on State Lands other than those owned by the University.

Forms approved by Attorney General

Sec. 2. All easements granted under Section 1 of this Act shall be on forms approved by the Attorney General.

Term of easement

Sec. 3. No right-of-way easement, electric substation, or tank farm, loading rack, or pumping station easement or lease of the character enumerated in Section 1 hereof may be granted for a longer term than ten (10) years, but any such easement may be renewed by the official or officials charged with the execution thereof, in his or their discretion.

Privilege fee for right of way

Sec. 4. From and after the passage of this Act every person or corporation occupying or using any unsold Public Free School Land, any islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tidewater limits, any portion of the Gulf of Mexico within the jurisdiction of Texas, and any unsold public land dedicated to the University of Texas, or any part thereof, as a telephone, telegraph, electric transmission and/or power line right of way, as an oil and/or gas pipe line right of way, shall, as a condition to such further use or occupancy, pay annually in advance for such privileges, to the Commissioner of the General Land Office at the General Land Office in Austin, Texas, a sum equal to two and one-half (2½) cents per lineal rod per annum for each and every rod of telephone, telegraph, electric transmission and power line, oil pipe line and/or gas pipe line used, possessed, or maintained by any such person or corporation on any unsold Public Free School Land, on any islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tidewater limits, on any portion of the Gulf of Mexico within the jurisdiction of Texas; and on any public land dedicated to the University of Texas. This annual privilege fee shall be paid by all such persons and corporations on all oil pipe line, gas pipe lines, telephone, telegraph, electric transmission and/or power lines now

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

existing and situated on public lands of the classes above mentioned which have not heretofore paid such fee. All amounts due shall be paid annually unless the easement granted provides otherwise.

Terms of easements fixed by Land Commissioner and Board of Regents of University

Sec. 5. Hereafter all telephone, telegraph, electric transmission, power lines, and/or all pipe line right-of-way easements shall be executed on terms to be fixed by the Land Commissioner and by the Board of Regents of the University of Texas, respectively, but no oil and/or gas pipe line right-of-way easement, telephone, telegraph, electric transmission and/or power line right-of-way easement shall be granted which does not provide for an annual privilege fee of not less than two and one-half (2½) cents per lineal rod per annum of oil and/or gas pipe line for which a right of way is sought. A higher fee may be fixed by contract between the officials named and any grantee of such easement.

Rentals for pumping stations, etc.

Sec. 6. The rental to be charged for an easement or lease for electric substation sites, pumping stations, loading racks, and tank farms shall be such as shall be agreed upon between the lessee and the Board of Regents with respect to University Lands, and the Commissioner of the General Land Office with respect to other State Lands.

Disposition of funds

Sec. 7. All income received by the Land Commissioner under this Act from Public School Land shall be credited to the Available School Fund; all income received by the Land Commissioner under this Act from University Lands shall be credited to the Available University Fund, and all income received by the Land Commissioner under this Act from the other lands herein set out shall be credited to the General Revenue Fund.

Interest on past due payments

Sec. 8. All past due payments under this Act shall bear interest at the rate of ten per centum (10%) per annum. In event the date of payment is not fixed by contract, or in event no written contract has been executed, all unpaid annual fees due shall bear interest at the rate of ten per centum (10%) calculated from the first day of January following the year for which such annual privilege fee was due.

Penalty for violations

Sec. 9. No person or corporation shall hereafter construct any telephone, telegraph, transmission and/or electric lines, pipe line, electric substation, tank farm, loading rack, and/or pumping station of the kind and character enumerated in Section 1 hereof across or on any section or part of a section of land of the character enumerated in Section 1 hereof and owned by the State of Texas, nor shall any person or corporation owning or possessing any telephone, telegraph, transmission and/or electric lines, pipe line, electric substation, tank farm, loading rack, and/or pumping station of the kind and character enumerated in Section 1 hereof now lying and situated on or across any section or part of a section of land of the character enumerated in Section 1 hereof and owned by the State of Texas, who has not obtained a proper easement as herein provided for, continue in possession of any such lands without obtaining from the Commissioner of the General Land Office, or the Board of Regents of the University of Texas, respectively, a grant of a right-of-way easement or other easement across or on such lands where such tele-

phone, telegraph, transmission and/or electric lines, pipe line, electric substation, tank farm, loading rack, or pumping station is to be constructed. Any person or corporation violating this section of this Act shall be liable for a penalty of One Hundred Dollars (\$100) per day for each day of such violation, said penalty to be recovered by the Attorney General.

Venue of suits

Sec. 10. The venue of all suits by the State arising out of this Act, or for violation of any provision of this Act, is hereby fixed in Travis County. As amended Acts 1943, 48th Leg., p. 275, ch. 174, § 1.

Approved April 27, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 read as follows: "If any section, clause, or part of this Act shall be held unconstitutional or otherwise invalid or unenforceable, such holding shall not have the

effect of nullifying or in any wise affect the remainder of this Act, and the parts of this Act not so held to be unconstitutional or unenforceable shall remain in full force and effect."

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

TITLE 103—PARKS

4B. BIG BEND STATE PARK

Art. 6077c. Creation of Big Bend State Park

Conveyances and transfers validated.

Acts 1943, 48th Leg., p. 425, ch. 291, effective May 8, 1943, read as follows:

"Section 1. All conveyances and transfers made by the Texas State Parks Board in pursuance to the purchase program established by Senate Bill No. 123, Acts of the 46th Legislature, Regular Session [art. 6077e], and Chapter 100, Acts of the 43rd Legislature, First Called Session [this article], are hereby validated in all respects as though they had been duly and legally made in the first instance and all deeds or other conveyances so made by said Board are hereby validated, providing however that such deeds or conveyances were duly executed by the Chairman or Vice-Chairman of the Texas State Parks Board and attested to by the Executive Secretary of said Board.

"Sec. 2. All agreements of transfer, exchanges, or conveyances made by the Texas State Parks Board in pursuance to the purchase program established by Senate Bill No. 123, Acts of the 46th Legislature, Regular Session, and Chapter 100, Acts of the 43rd Legislature, First Called Session, are hereby validated in all respects as though they had been duly and legally made in the first instance; and in furtherance of this validation the Chairman or Vice-Chairman of the Texas State Parks Board is hereby authorized to execute conveyance to the lands under agreements of transfer, exchange, or conveyance and the Executive Secretary of said Board shall attest thereto. All such transfers, exchanges, or conveyances shall be in fee simple and all lands heretofore transferred by the State of Texas to the State Parks Board for park purposes for which the considerations set out in Senate Bill No. 123, Acts of the 46th Legislature, Regular Session, and Chapter 100, Acts of the 4rd Legislature, First Called Session, have been duly paid and acknowledged shall be held in fee simple and subject to transfer in fee simple.

"Sec. 3. In all cases where deeds to

the State of Texas for park purposes in connection with the Big Bend National Park acquisition program were recorded, and subsequently thereto title difficulties were not cleared and no funds were paid to the grantor thereof, the agreements of the Texas State Parks Board to clear title to such lands are hereby validated in all respects as though they had been duly and legally made, and the Chairman or Vice-Chairman of the said Board is hereby duly authorized to execute quit claim deeds to grantors falling under the above classification and the Executive Secretary of the Parks Board shall attest thereto.

"Sec. 4. Where boundaries of the Big Bend National Park were in certain instances re-adjusted as authorized by Senate Bill No. 123, Acts of the 46th Legislature, Regular Session, and certain lands transferred from the State of Texas for the benefit of certain school funds to the State Parks Board for park purposes were left without the re-adjusted boundaries, and thus abandoned for park purposes, the act of abandonment of the Texas Parks Board is hereby validated and these lands which are described herein below are transferred to the State of Texas to be held for the benefit of the department or funds for which they were originally held before the transfer for park purposes was made. The said abandoned lands to be transferred are described as follows: [Descriptions of lands omitted].

"Sec. 5. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portion of this Act shall not be affected thereby, it being the intent of the Legislature in adopting, and of the Governor in approving this Act, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation."

TITLE 108—PENITENTIARIES**2. REGULATIONS AND DISCIPLINE**

Art.

6184L. Commutation for good conduct
[New].

Art.

6203aa. Permits for geological surveys
[New].**1. PRISON COMMISSION****Art. 6166v. Commutation for good conduct**Commutation of time, see, also, article
6184L.**2. REGULATIONS AND DISCIPLINE****Art. 6184L. Commutation for good conduct**

In order to encourage prison discipline, a distinction may be made in the treatment of prisoners so as to extend to all such as are orderly, industrious and obedient, comforts and privileges according to their deserts. The reward to be bestowed on prisoners for good conduct shall consist of such relaxation of strict prison rules and extension of social privileges as may be consistent with proper discipline. Commutation of time for good conduct, industry and obedience shall be granted by the General Manager and twenty (20) days per month deduction shall be made from the term or terms of sentences when no charge of misconduct has been sustained against a prisoner. A prisoner under two (2) or more cumulative sentences shall be allowed commutation as if they were all one (1) sentence. For each sustained charge of misconduct in violation of any rule known to the prisoner (including escape or attempt to escape), any part or all the commutation which shall have accrued in favor of the prisoner to the date of said misconduct may be forfeited and taken away by the General Manager upon the recommendation of the Classification Committee and/or Disciplinary Committee, unless, in case of escape, the prisoner voluntarily returns without expense to the state, such forfeiture shall be set aside by the General Manager. No overtime allowance or credits in addition to the twenty (20) days commutation of time for good conduct may be deducted from the term or terms of sentences, except for extra meritorious conduct on the part of any prisoner, he shall be recommended to favorable consideration of the Board of Pardons and Paroles and the Governor for increased commutation or pardon.

This Act shall not take effect in the cases of those prisoners who, at the time this Act takes effect, are being credited with more than twenty (20) days per month by virtue of overtime job assignments except upon removal from such assignment because of misconduct, escape, or return to prison because of violation of clemency; provided, however, should any prisoner be removed from any such assignment because of misconduct, an appeal shall lie to the Disciplinary Committee, and in the event of an adverse decision by said Disciplinary Committee, the prisoner so removed by reason of misconduct shall have the right of appeal to the Texas Prison Board, whose decision shall be final.

When present overtime job assignments carrying more than twenty (20) days per month credit are vacated by the present incumbent for any reason, said job assignments shall not be renewed for a credit of more than twenty (20) days per calendar month.

The General Manager shall keep or cause to be kept a conduct record in card or ledger form and a calendar card on each inmate showing all forfeiture of commutation time and the reasons therefor. As soon as practical, the General Manager shall change the conduct records of prisoners now in the penitentiary to conform with said conduct record and calendar card. The Classification Committee, referred to in this Act, shall be appointed and created by the Prison Board and shall consist of: the Warden, General Manager, Classification Director, Chaplain, Assistant Warden, and a Doctor. The Disciplinary Committee, referred to in this Act, shall be created by act of the Prison Board and shall be composed of: the Warden, Chaplain, a Psychologist, and/or a Representative of the Classification Committee. Acts 1943, 48th Leg., p. 635, ch. 361.

Approved and effective May 22, 1943.

Section 2 of the Act of 1943 repealed 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 encourage prison discipline; authorizing a system of reward for good prison conduct; providing for the commutation of time for good conduct, industry, and obedience and authorizing the General Manager to make such commutation; authorizing twenty (20) days per month deduction from the term or terms of sentences when no charge of misconduct has been sustained against a prisoner; providing that a prisoner under two (2) or more cumulative sentences shall be allowed commutation as if they were all one (1) sentence; providing for the forfeiture of any part or all of the commutation provided in this Act for each sustained charge of misconduct in violation of any rule known to the prisoner upon recommendation of the Classification Committee and/or the Disciplinary Committee and providing that in case of the escape of a prisoner and he voluntarily returns without expense to the State such forfeiture shall be set aside by the General Manager; providing for and defining the words "Classification Committee" and "Disciplinary Committee"; providing that no overtime allowance or credits in addition to the twenty (20) days commutation of time for good conduct may be deducted from the term or terms of sentences except for ex-

tra meritorious conduct on the part of the prisoner, in which case he shall be recommended to favorable consideration of the Board of Pardons and Paroles and the Governor for increased commutation or pardon; providing that this Act shall not affect prisoners who at the time this Act takes effect are being credited with more than twenty (20) days per month by virtue of overtime job assignments, except upon removal from such assignments because of misconduct, escape or return to prison because of any violation of clemency; providing for appeals in cases where prisoners are removed from job assignments by reason of misconduct; providing when present overtime job assignments carrying more than twenty (20) days per month credit are vacated by the present incumbent for any reason, said job assignments shall not be renewed for a credit of more than twenty (20) days per calendar month; requiring the General Manager to keep or cause to be kept a conduct record in card or ledger form and a calendar card on each inmate showing all forfeitures of commutation time and the reasons therefor; and providing that as soon as practical the General Manager shall change the conduct records of prisoners now in the penitentiary to conform with said conduct record and calendar card; repealing all laws in conflict with this Act; and declaring an emergency. Acts 1943, 48th Leg., p. 635, ch. 361.

Commutation of time, see, also, art. 6166v.

Art. 6203aa. Permits for geological surveys

The Board for Lease of Texas Prison Lands heretofore created, composed of the Commissioner of the General Land Office, the Attorney General and the Chairman of the State Prison Board, is hereby authorized to grant permits for geological surveys or investigations on Prison Lands, which said Board has heretofore been authorized to lease for oil and gas, for such consideration and under such terms and conditions as said Board may deem to the best interest of the State of Texas, and which will encourage the development of said lands for oil and gas, which surveys shall be made in such way as to not unreasonably interfere with

the operation of said Prison System. Added Acts 1943, 48th Leg., p. 412, ch. 279, § 1.

Approved and effective May 8, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to be known as Article 6203aa,

authorizing the Board for Lease of Texas Prison Lands to grant permits for geological surveys or investigations on Prison Lands, providing the means and manner thereof, and declaring an emergency. Acts 1943, 48th Leg., p. 412, ch. 279.

Art. 6203c. Improvement of prison system

Contracts for sale of products to Board of Control

Section 9. Authority is hereby given to the Prison Board and to the Board of Control to enter into contracts whereby the Prison Board may sell to the Board of Control any products produced by the prison system, whether such products be agricultural or manufactured products, and it is hereby made the duty of the Board of Control to purchase all needed prison products when such purchase is economical. When goods, wares, merchandise, or supplies are procured, bought, or manufactured and then furnished any department, State Institution, or unit of the prison system, the charge against such department, State Institution, or unit for such goods, wares, merchandise, or supplies shall be the identical cost price of such article whether bought or manufactured and with no cost for labor or overhead charge included. When farm products are transferred from one department or State Institution or unit of the prison system to another the charge to such receiving unit or department or State Institution shall be at the market price of such product on the day delivered at the place delivered. As amended Acts 1943, 48th Leg., p. 104, ch. 75, § 1.

Section 2 of Acts 1943, 48th Leg., p. 104, ch. 75, read as follows: "Senate Joint Resolution 26, Acts of the Forty-first Legislature, Regular Session, covering agreements authorizing the prison system to produce and sell farm products to State Institutions, is hereby expressly repealed."

Approved and effective March 22, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6203d. Rights of way for irrigation canals, laterals, flumes, electric lines and pipe lines over lands of penitentiary system

Section 1. That the Texas Prison Board, by and with the consent of the Governor and the Attorney General of the State of Texas, is hereby authorized and empowered to grant permanent and temporary right-of-way easements for irrigation canals, laterals, flumes, and ditches, and for electric lines and pipelines consisting of wires, pipes, poles and other necessary equipment for the transmission or conveyance of, and/or distribution of, water, electricity, gas, oil and/or other similar substances or commodities, such easements to be not in excess of one hundred and fifty (150) feet in width, along, across and over any and all lands now owned by the State of Texas as a part of the Penitentiary System, and/or to lease such rights of way to districts, companies, firms and individuals carrying on, or formed for the purpose of carrying on, or engaged in, the business of transmitting or conveying and/or distributing any such substance or commodity.

Sec. 2. Such grants and leases shall be executed only upon a fair and adequate consideration, and shall contain full reservation of all minerals in and under said lands, sufficient guarantees as to the use by the State Prison Board of the waters, electricity, gas, oil and/or other substances or commodities conveyed along, across, or over such right-of-way easements for irrigation, heat, light, power and other purposes, and such

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

other covenants, conditions, and provisions, as to the Texas Prison Board, together with the approval of the Governor and the Attorney General, shall appear to be fair, wise, and reasonable; provided, however, that all of such grants or leases shall require that the person, firm or corporation securing a right of way or easement shall pay all costs of any improvements at any time made necessary in crossing any right of way or easement, granted or leased to him or it under the provisions of this Act. As amended Acts 1943, 48th Leg., p. 281, ch. 177, §§ 1, 2.

Approved and effective April 27, 1943.

Section 3 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

TITLE 109—PENSIONS**2. CITY PENSIONS**

Art.

6243g. Pension system in cities over 384,-
000 [New].**1. STATE AND COUNTY PENSIONS****Art. 6204. 6267 Tax**

There shall be levied and collected in the same manner and at the same time that other ad valorem taxes are levied and collected for the year of 1925, and annually thereafter, an ad valorem tax of Two (2¢) Cents on the One Hundred (\$100.00) Dollars valuation thereof on all property owned in the state on the first day of January of 1943, and of every year thereafter, and on all property sent out of the state prior to the first day of January of any of said years for the purpose of evading the payment of taxes thereon, and afterwards returned to the state, except so much thereof as may be exempted by the Constitution and laws of this state or of the United States; which valuation shall be made in the manner prescribed by law for the assessment, levy, and collection of other state and county taxes, which said tax so levied and collected shall be paid into the Treasury of the State of Texas, in the same manner as other state taxes, and shall constitute a special fund for the payment of pensions, as may be provided by law, to Confederate soldiers and their widows, and to other Texas soldiers and militiamen who served during the War between the States entitled to pensions under the laws of Texas, and their widows, and shall constitute a special fund for the payment of such pension in the manner and under the rules and regulations as are and may be prescribed by law. Said fund is hereby expressly appropriated by the Legislature of the State of Texas for the purpose herein stated, and this Act shall not affect or release liability of any person for taxes, penalties, interest or costs accruing under prior laws, or the right to collect or enforce collection thereof by suit or otherwise. As amended Acts 1943, 48th Leg., p. 187, ch. 108, § 1.

Approved April 7, 1943.

Effective 90 days after May 11, 1943,
date of adjournment.

Section 4 of the amendatory Act of 1943 authorized the transfer of \$1,500,000 from the Confederate Pension Fund to the General Revenue Fund to be applied as a credit to advancements previously made.

Section 5 read 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 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 of the sections, subsections, sentences, clauses, or phrases should be declared unconstitutional."

Section 6 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

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 ap-

plication 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 nine (9) 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. As amended Acts 1943, 48th Leg., p. 617, ch. 357, § 1.

Approved May 18, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 6221. 6279 Appropriation, how allotted

On the first day of each calendar month the Comptroller shall pay to each married veteran who is living with his wife, a pension of Eighty (\$80.00) Dollars per month for as long as they both may live, and after the death of either party, then the said veteran, or his widow still living, shall only draw an amount equal to other veterans or their widows. To each veteran now unmarried, or a widower, who is drawing a pension, or whose application may hereafter be approved, shall be paid the sum of Fifty (\$50.00) Dollars per month for each year. To each widow who is now drawing a pension, or whose application may hereafter be approved, shall be paid the sum of Thirty (\$30.00) Dollars per month for each year; provided that any person who has been granted a pension; and who is thereafter admitted as an inmate of the Confederate Home of this state, shall thereafter be entitled to receive pension payments of the amount of one-half ($\frac{1}{2}$) of the pension that such person would be entitled to receive if not an inmate of such Home. (All pensions shall begin on the first day of the calendar month following the approval of the application.) As amended Acts 1943, 48th Leg., p. 187, ch. 108, § 2.

Approved April 7, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Art. 6227. Mortuary warrant

Whenever any pensioner who has been regularly placed upon the pension rolls under the provisions of law relating thereto shall die, and proof thereof shall be made to the Comptroller within forty (40) days from the date of such death by the affidavit of the doctor who attended the pensioner during the last illness, or the undertaker who conducted the funeral, or made arrangements therefor, the Comptroller shall issue a mortuary warrant for an amount not exceeding One Hundred (\$100.00) Dollars, payable out of the Pension Fund, in favor of the heirs or legal representatives of the deceased pensioner, or in favor of the person or persons owning the accounts. (Proof of the existence and justice of such accounts to be made to said Comptroller under oath and in such form as he may require for the purpose of paying the funeral expenses of the deceased pensioners. In such cases where a warrant for the pension for the month during which the pensioner died has been issued, the same shall be returned to the Comptroller who shall mark the same "Cancelled" and file it; or if the warrant has been cashed, then the Confederate Pension Fund shall be reimbursed with the amount for which the warrant was drawn before the mortuary warrant herein provided for shall issue. Where such warrant for the pension has not been issued, the same shall not be issued, but the mortuary warrant herein provided for shall take place thereof.) As amended Acts 1943, 48th Leg., p. 187, ch. 108, § 3.

Approved April 7, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

2. CITY PENSIONS**Art. 6243g. Pension system in cities over 384,000**

Section 1. There is hereby created a Municipal Pension System in all cities in this State having a population of three hundred and eighty-four thousand (384,000) or more according to any preceding or future Federal Census.

Definitions

Sec. 2. The following words and phrases when used in this Act are defined as follows, to wit:

(a) "Pension System" means the retirement, disability and pension system for employees of cities coming within the provisions of this Act.

(b) "Member" means any and all city employees included in the pension system provided for and becoming members thereof.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under this Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by a person employed by such city.

(e) "Pension" means payments for life to the city employees out of the Pension Fund provided for herein to members of the Pension System upon becoming disabled or reaching retirement as provided herein and becoming eligible for such payments.

(f) "Separation from Service" means cessation of work for the city, whether caused by death, discharge or resignation.

(g) "Separation Allowance" means the accumulation of payments made by the employee to the Pension Fund and returned to him upon his separation of service with the city.

(h) The use of the masculine gender includes the feminine gender.

Persons eligible

Sec. 3. (a) Any person who is an employee of such city on the date of passage hereof, shall be eligible for membership in the Pension System, except as hereinafter provided, and shall automatically become a member upon the expiration of ninety (90) days from the effective date hereof, unless the employee has filed with the Pension Board written election not to become a member, which shall constitute a waiver of all present and prospective benefits which would otherwise inure to him by participation in the system. But any employee of such city whose membership in the Pension System is contingent on his own election and who elects not to participate, may later become a member provided he passes such medical examination as the Pension Board may require. If such employee becomes a member within six (6) months after the effective date of this Act, the employee shall be eligible for prior service credit, but if he does not become a member within such period, he shall not be eligible for prior service credit; by prior service credit is meant credit for service rendered such city as an employee prior to becoming a member in said Pension System. Written notice by registered letter shall be given each and every employee eligible for membership in the Pension System by such city within sixty (60) days from the passage of this Act informing him of the terms and provisions of this paragraph.

(b) Any person who hereafter becomes an employee of such city shall automatically, after one year of service, become a member of the Pension System as a condition of his employment.

(c) Employees of such city who may not become members of the Pension System shall include: (1) all elected officers of the city, (2) all quasi legislative, quasi judicial, and advisory boards and commissions, (3) all part-time employees, (4) all seasonal and temporary employees, and all employees of the Fire Department.

Pension Board

Sec. 4. (a) There is hereby created a Pension Board of the Pension System, in which Board there is hereby vested the general administration, management and responsibility for the proper and effective operation of the Pension System. The Board shall be organized immediately after its members have qualified and taken the oath of office and shall serve without compensation.

(b) The Pension Board shall be composed of seven (7) members as follows:

- (1) City Manager of the City,
- (2) Treasurer or Director of Treasury of the City,
- (3) Two (2) employees of the city having membership in the Pension System and elected by the members of such System. But no city department shall have more than one representative, the persons so elected shall serve for a term of two (2) years.

The term of office of succeeding members so elected shall likewise be two (2) years and each such member shall continue to serve until his successor is duly elected and qualified. Vacancies occurring by death, resignation or removal of such representative shall be filled by members elected by the members of the Pension System. The first election of employee members shall be held in such city at such time and place as shall be fixed by the City Council, and to be not more than seventy-five (75) days from the passage of this Act.

(4) Three (3) legally qualified taxpaying voters of such city, residents thereof for the preceding three (3) years, to be chosen by the City Council, being neither employees nor officers of such city. The

three (3) members so chosen by the City Council shall serve for two (2) years and until their successors are duly elected and qualified. Vacancies occurring by death, resignation or removal of such representative shall be filled by the City Council.

(c) Each member of the Pension Board within ten (10) days after his appointment and election shall take an oath of office that so far as it devolves upon him he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this law.

(d) The Board shall elect from its membership annually a Chairman, Vice-Chairman and Secretary. Pursuant to the powers granted under the charter of such city, the City Manager shall appoint one or more employees whose positions and salaries shall be fixed by City Council and who, acting under direction of the City Manager and Treasurer or Director of Treasury, shall keep all of the records of and perform all of the clerical services for the Pension System. The salaries of such employees shall be paid by the city.

(e) Each member of the Board shall be entitled to one vote in the Board. Four concurring votes shall be necessary for a decision by the members at any meeting of the Board, and four (4) members shall constitute a quorum.

(f) A meeting of said Pension Board may be called at any time by the Chairman, Secretary, or by any four (4) members of such Pension Board.

(g) Notice shall be given to all members of such Pension Board unless waived in writing as to any proposed meeting by the depositing of a written notice in the United States mail at least forty-eight (48) hours before such meeting, properly addressed to each such member. If a meeting is had, however, at which all of the members of the Board attend, no notice shall be necessary.

(h) No moneys shall be paid out of the Pension Fund except by warrant, check, or draft signed by the Treasurer and countersigned by either the President or Secretary, upon an order by said Pension Board duly entered in the minutes.

(i) The Pension Board shall determine the prior service to be credited to each present employee who becomes a member of the Pension System. The Board shall rely upon the personnel records of such city in determining such prior service credit. After obtaining the necessary information such Board shall furnish each member of the Pension System a certificate showing all prior service credits authorized and credited to such member. Such member may, within one year from the date of issuance or modification of such certificate request the Board to modify or change his prior service certificate, otherwise such certificate shall become final and conclusive for retirement purposes as to such service.

Treasurer of Pension Fund

Sec. 5. The City Treasurer of any such city, or the person discharging the duties of the City Treasurer, is hereby designated as the Treasurer of said Pension Fund for said city and his official bond to said city shall operate to cover his position of Treasurer of said Pension Fund and his sureties shall be liable in connection with the Treasurer's actions pertaining to such Fund as fully as they are liable under the terms of said bond for the other actions and conduct of said Treasurer. All moneys of every kind and character collected or to be collected for said Fund shall be paid over to said Treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

Contributions by members

Sec. 6. Commencing with the first day of the month after the expiration of ninety (90) days from the passage of this Act, each member of the Pension Fund shall pay into such Fund for the first two (2) years, the sum of Three Dollars and Fifty Cents (\$3.50) per month, and for the next two (2) years the sum of Four Dollars (\$4) per month, which payments shall be deducted by the city from the salary of each and every member monthly and paid to the Treasurer of said Pension Fund.

Contributions by city

Sec. 7. In addition to the payments provided for in the next preceding Section, such city shall pay monthly into such Pension Fund, from the General or other appropriate Fund, of any such city, an amount equal to the total sum paid into such fund by salary deductions of members as set out in the next preceding Section.

Increase in contributions

Sec. 8. The monthly payments and/or contributions to be paid into the Pension Fund by the members thereof and such city may, at any time after the expiration of four (4) years from the passage of this Act, be increased by ordinance of any such city to an amount not to exceed Six Dollars (\$6) per month, payable by each member, and Six Dollars (\$6) per month, payable for each member by the city, which payments shall be made in the same manner as provided in Sections 6 and 7, respectively, of this Act; it being the intention hereof that such city shall contribute to such Pension Fund an amount equal to the amounts paid by each member thereto, but no more.

Contributions of employees earning under \$85.00

Sec. 9. Notwithstanding anything herein to the contrary, all members whose regular monthly salary amounts to less than Eighty-five Dollars (\$85) per month, shall pay only one-half as much into the Pension Fund and receive only one-half as much retirement or disability pension as do the other members of such Pension System and, furthermore, the city's payment into the fund shall not exceed the amount paid into such fund by said member; that should such member be required to pay the full rate part of the time due to his salary being raised to more than Eighty-five Dollars (\$85) per month, then the retirement or disability pension, as the case may be, payable to him hereunder, shall be determined based upon the period of time during which he paid a reduced amount into the Pension Fund as compared to the period of time that he paid the full amount into said fund. For example, if half of the time he paid the reduced amount and the other half the full amount, then the pension payable to him hereunder would amount to only three-fourths as much as it would have been had he paid the full amount for the entire period of time.

Surplus; investment

Sec. 10. Whenever, in the opinion of the said Pension Board there is on hand in said Pension Fund a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest bearing obligations and securities of the United States, the State of Texas, the County of Harris, the Harris County-Houston Ship Channel Navigation District and the City of Houston.

Segregation of pension funds

Sec. 11. In all such cities where a General Pension Fund for city employees has been accumulated the governing body of each such city shall segregate from such fund the amount thereof set aside for all city employees, except the employees in the Fire Department, and shall transfer such sum into the Pension Fund of the Municipal Employees Pension System as provided for in this Act.

Retirement on pension

Sec. 12. From and after the passage of this Act, any member of such Pension System who has been in the service of the city for the period of twenty-eight (28) years and has attained sixty (60) years of age shall be entitled to a retirement pension of Sixty-five Dollars (\$65) per month for the rest of his life, upon his retirement from the service of said city. Upon the completion of said twenty-eight (28) years of service and attaining sixty (60) years of age, such Pension Board shall issue to said member a certificate showing that he is entitled to said retirement pension and thereafter when such member retires, whether such retirement be voluntary or involuntary, such monthly payment shall begin forthwith and continue for the remainder of said member's life. It shall be compulsory for any member to retire from service upon attaining sixty-five (65) years of age, unless his service is extended by the City Council or governing body of the city upon the recommendation of the City Manager or chief executive and administrative head of such city, which in no event shall be beyond the employee's reaching seventy (70) years of age. If at the time of retirement such member has completed less than twenty-eight (28) years of service, but more than ten (10) years of service, his retirement pension shall be prorated. For example, if the employee had completed only fourteen (14) years of service, his monthly pension would be 14/28ths of Sixty-five Dollars (\$65) or Thirty-two Dollars and Fifty Cents (\$32.50). No member shall be required to make any payments into the Pension Fund after he has been issued the aforesaid certificate entitling him to retirement pension; however, if he continues to work for the city he may continue his monthly payment into the Pension Fund and upon retirement he will receive an additional pension called a service bonus amounting to Two Dollars and Fifty Cents (\$2.50) per month for each extra year of service completed. For example, if he worked until he was seventy (70) years of age his service bonus would be Twenty-five Dollars (\$25) per month, which when added to his regular pension would amount to Ninety Dollars (\$90) per month.

Service with any such city in the Fire Department after the passage of this Act shall not be included in determining the eligibility to such retirement pension.

Disability; pension

Sec. 13. If any member shall become totally and permanently disabled after completing twenty-eight (28) years of service with the city as a direct and proximate result of the performance of the duties of his employment with said city, he shall be retired on a pension of Sixty-five Dollars (\$65) per month during the remainder of his life, plus any earned service bonus, if any. On the other hand, if he has completed less than twenty-eight (28) years of service with the city, but more than ten (10) years, his disability pension shall be calculated on a prorata basis. If he is so disabled prior to completing ten (10) years of service, then he shall not be entitled to any pension whatsoever.

By total and permanent disability is meant such disability as permanently incapacitates a member from performing the usual and customary duties which he has been performing for such city.

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

Before any disability pension is allowed, the Pension Board shall require such medical examination and such other evidence as it may see fit to establish such total and permanent disability, as above provided.

When any member has been retired for total and permanent disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member shall refuse to submit himself to any such examination, the Pension Board may, within its discretion, order said payments stopped. If a member who has been retired under the provisions of this section should thereafter recover (and he shall do all things reasonably necessary to recover) so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for said city, and such member is reinstated or tendered reinstatement to the position he held at the time of his retirement, then the Pension Board shall order such pension payments stopped.

Amount of pension

Sec. 14. Any and all members who complete twenty-eight (28) years of service with the city after attaining sixty (60) years of age shall receive a monthly retirement pension of Sixty-five Dollars (\$65) and such service bonus, if any, as has been earned by him. Any and all members who stopped working for the city after reaching sixty (60) years of age, for any cause whatsoever, who have completed less than twenty-eight (28) years of service, shall be paid a retirement pension on a prorata basis. If any member's work is terminated by the city prior to his having completed ten (10) years of service with the city, he shall not be paid any pension whatsoever, but shall receive the amount paid by him into the Pension Fund by way of salary deduction only without interest.

Computing period of service

Sec. 15. In computing the twenty-eight (28) years of service required for retirement pension, interruption of less than three months out of service shall be construed as continuous service without any deduction therefor, but if out of service for more than three months and less than ten (10) years, credit shall be given for prior service, but deduction shall be made for the length of time out of service. If out of service more than ten (10) years, no service prior to said time shall be counted.

Termination of employment; death; reemployment

Sec. 16. When any member of such Pension System shall leave the employment of such city, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall thereupon cease to be a member of such Pension System, but shall have refunded to him all of the payments made by him into said Pension Fund by way of salary deductions without interest, except that if such member has completed twenty-eight (28) years, or more, of service with the city prior to becoming sixty (60) years of age, and is let out of employment by the city, he may allow his prior payments to remain in the Pension Fund and such member, but not the city, shall continue such monthly payments into the Pension Fund until he becomes sixty (60) years of age, whereupon he will be entitled to a retirement pension for life for such amount as he would have received had he continued working for such city.

When any member of the Pension Fund dies prior to being retired on a pension, any and all amounts paid by him into the Pension Fund shall be paid to his lawful heirs without interest.

When any member of the Pension Fund who has been retired on either a retirement or disability pension dies from any cause, prior to having received retirement pension payments aggregating the total amount

paid by such member into the Pension Fund, then in that case, the difference between the amount received by such member from the Pension Fund and the amount paid by him into the Pension Fund shall be paid out of the Pension Fund to his lawful heirs.

It is contemplated that said sum shall be paid such departing member, or his lawful heirs, as the case may be, in a lump sum, but if in the opinion of the Pension Board, the funds on hand are too low to justify such lump sum payment, said payment shall be refunded on a monthly basis in such amounts as may be determined by the Pension Board.

When a member has left the service of the city as aforesaid and has therefore ceased to be a member of such Pension System, if such person shall thereafter be re-employed by the city, he shall thereupon be reinstated as a member of such Pension System provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician in Harris County, Texas, satisfactory to the Pension Board. Prior service of such member with such city shall not be counted toward his retirement pension unless such member returns to the service within ten (10) years from his separation therefrom and also shall, within six (6) months after his re-employment by the city, repay to such Pension Fund all moneys withdrawn by him upon his separation from the service, plus interest thereon at the rate of three (3) per cent per annum from date of such withdrawal.

Reduction of benefits; dissolution of system

Sec. 17. In the event said Pension Fund becomes seriously depleted, in the opinion of the Pension Board, said Pension Board may proportionately and temporarily reduce the benefits of all pensioners and beneficiaries, but such reductions shall thereafter be paid to such pensioners and beneficiaries, as and when said fund is, in the opinion of the Pension Board, sufficiently reestablished to do so. Should the reserve and/or surplus in the Pension Fund become exhausted and at such time the outgo of the Pension Fund exceed the income thereto, then in such event, the city council or other governing body shall have the right, by ordinance duly passed, to dissolve the Pension System and require liquidation thereof without any liability to the city whatsoever.

Legal services

Sec. 18. The City Attorney of such city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board may, however, if it deems necessary, employ outside legal advice to the exclusion of, or to assist, the City Attorney, and pay reasonable compensation therefor out of said Pension Fund.

Actuary

Sec. 19. Such Pension Board may, at its discretion, from time to time, employ an actuary and pay his compensation therefor out of the Pension Fund. The City Council may require that an actuarial study, survey and report be made of such Pension System not more than once every five (5) years.

Exemption from execution, attachment or other writ

Sec. 20. No portion of any such Pension Fund, either before or after its order of disbursement by said Pension Board, and no amounts due or to become due any beneficiary or pensioner, under this Act, shall ever be held, seized, taken, subjected to, detained, or levied up-

on by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, or any process or proceeding whatsoever, shall issue out of or by any Court of this State for the payment or satisfaction in whole or in part out of said Pension Fund, of any debt, damage, claim, demand, or judgment against any such members, pensioners, dependents, or any person whomsoever, nor shall such Pension Fund or any part thereof, or any claim thereto, be directly or indirectly assigned or transferred and any attempt to transfer or assign the same or any part thereof, or any claim thereto, shall be void. Said Fund shall be sacredly held, kept, and disbursed for the purposes provided by this Act, and for no other purposes whatsoever.

Members in military service

Sec. 21. Members of the Pension System engaged in active military service shall not be required to make the monthly payments into the Pension Fund, provided for in this Act, nor shall they lose any previous years of service with the city caused by such military service. Furthermore, the city shall not be required to make any monthly payments into the Pension Fund on such member while he is engaged in the military service.

Provisions cumulative; conflicting provisions

Sec. 22. The provisions hereof shall be cumulative of and in addition to all other laws relating to pensions, which laws are hereby preserved and continued in force and effect, provided, however, that in the event of any conflict, the provisions of this law shall control, and Municipal Pension Systems (exclusive of Firemen's pensions) in the cities covered by this Act shall be administered in accordance with this law.

Partial invalidity

Sec. 23. 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.

Employees on retirement when act enacted

Sec. 24. The former employees of any such city now on retirement at part pay by the city shall hereafter be paid a monthly pension out of the Pension Fund provided for herein in the same amount and under the same conditions as are provided herein for present and future employees of any such city becoming members of said Pension System. For example, if a former employee now on retirement worked twenty-eight (28) or more years for the city and is over sixty (60) years of age, the monthly pension hereafter payable to such employee out of the Pension Fund shall be Sixty-five Dollars (\$65) per month during the remainder of his life, whereas if such employee was retired by the city before completing ten (10) years of service he shall not receive any payment from said Pension Fund. Any such city shall have the right and option to pay such former employees any amounts over and above those hereinabove provided for, but such additional payments, if any, shall be borne by such city and not the Pension Fund. Acts 1943, 48th Leg., p. 619, ch. 358.

Filed without the Governor's signature,
May 24, 1943.

Effective May 24, 1943.

Section 25 of the Act of 1943 declared an emergency and provided that the Act

should take effect from and after its passage.

Title of Act:

An Act creating a Municipal Pension System in all cities in this State having a

population of three hundred and eighty-four thousand (384,000) or more, according to any preceding or future Federal Census; defining certain words and phrases used in said Act; providing what employees of any such city are eligible for said Pension System; providing what employees shall automatically become members of such Pension System and the time and procedure in connection therewith; providing what employees may later become members of such Pension System and prescribing the procedure therefor; providing for prior service credits and defining the meaning and application thereof; providing for notice to be given employees eligible for membership; providing who shall automatically become members of such Pension System; providing for the creation of a Pension Board, the method of selection of the members of such Board and the terms of office, method of qualification and duties of the members of such Board; providing for the election of officers by such Pension Board and for the appointment of certain members to keep the records and perform the clerical service for such Pension System; providing for a quorum and prescribing the voting by the members of the Board; providing for meetings of said Pension Board and prescribing the procedure for calling such meetings; providing how moneys shall be paid out of the Pension Fund; providing for the determination of prior service credits of the members of the Pension System; providing for a treasurer of such Pension System, the terms and conditions of his occupying such position and prescribing the duties of such treasurer; providing for contributions by members of the Pension System to be paid into the Pension Fund; providing payments to be made by such city into the Pension Fund; providing that the payments and contributions into said Pension Fund may be increased by ordinance; providing for the difference in the contributions to be made into the Pension Fund by members with relation to their salaries and providing the distinction and benefits in accordance with the contributions of different salary groups; providing for the investment of surplus funds and the terms and conditions thereof; providing that in all such cities where a general Pension Fund has been accumulated, that a specified proportionate part thereof shall be transferred to the Pension Fund created by this Act; providing for the issuance of pension certificates, the payment of retirement

pensions and the terms and conditions thereof; providing for the payment of disability pensions, and the terms and conditions thereof; providing for the payment of retirement pensions for those members who have completed twenty-eight (28) years of service and have reached sixty (60) years of age; providing for pro rata retirement pensions to those who have worked at least ten (10) years and who become sixty-five (65) years of age and prescribing the terms and conditions of said retirement pension and such pro rata pension; providing what services shall be included in determining the payment of retirement pensions; providing, when membership shall cease in such Pension System, for refunds to be made to members retiring before becoming eligible to a pension; providing the terms and conditions upon which one who has served twenty-eight (28) years and leaves the service of the city may continue in such Pension System and providing for the payment of retirement pensions to such persons; providing for refunds to the lawful heirs of a deceased member of the Pension System; providing that when any member who has retired upon a pension shall die prior to his having received payments equal to the total amount paid in by such member that the difference shall be paid to his lawful heirs, and prescribing the terms and conditions of such payments; providing the terms and conditions upon which a member who has left the service of the city may be reinstated into the Pension System upon his re-employment by the city; providing for reductions in payment of pensions upon the depletion of the fund and the terms and conditions of such payments; providing for the handling of legal matters and the terms and conditions thereof; providing for the employment of an actuary and the terms and conditions thereof; providing for the exemption of Pension Funds from legal process and the terms and conditions thereof; providing the terms and conditions of membership in the Pension System for those engaged in the military service; providing that the terms of this Act shall be cumulative of other laws relating to pensions; providing a saving clause; providing the terms and conditions upon which former members of such city now on retirement at part pay shall be paid out of the Pension Fund; and declaring an emergency. Acts 1943, 48th Leg., p. 619, ch. 358.

TITLE 110A—PUBLIC OFFICES [NEW]

Art.

6252—1. Conduct of business by assistants or deputies when physical vacancy occurs in public office [New].

Art. 6252—1. Conduct of business by assistants or deputies when physical vacancy occurs in public office

When there shall occur a physical vacancy in a public office in this State, by reason of death or otherwise, the duties and powers of such office shall immediately devolve upon the first assistant or chief deputy if there be one, who shall conduct the affairs of the office until the vacancy in the term thereof shall be filled by the appointment or election and qualification of a successor to the principal officer; should any such vacancy occur while the Legislature is in Session (where the appointee must be confirmed by the Senate) such first assistant or chief deputy (as such) shall not discharge the duties of the office for a longer period than three (3) weeks and in no event after such Session of the Legislature has adjourned. The provisions hereof shall not apply to vacancies in the membership of boards or commissions. Acts 1943, 48th Leg., p. 14, ch. 13, § 1.

Approved and effective Feb. 9, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the conducting of the business of public offices by first as-

istants or chief deputies, in the case of physical vacancies therein, until the vacancy in the term of the office shall be filled by the appointment or election and qualification of a successor; making certain conditions and exceptions thereto; and declaring an emergency. Acts 1943, 48th Leg., p. 14, ch. 13.

TITLE 112—RAILROADS**CHAPTER EIGHT—RESTRICTIONS, DUTIES AND LIABILITIES****Art. 6357. [6552] [4494] [4226] Train regulations**

Blind persons accompanied by "Seeing Eye" dogs, transportation of, see article 889a.

CHAPTER THIRTEEN—MISCELLANEOUS RAILROADS**Art. 6544. 6742-45 Street railway fares**

Blind persons accompanied by "Seeing Eye" dogs, transportation of, see article 889a.

TITLE 113—RANGERS—STATE**Article 6560. [6754] Organization**

Additional law enforcement officers in counties having 5000 or more cattle, sheep or goats, see article 1581b.

TITLE 115—REGISTRATION**CHAPTER TWO—ACKNOWLEDGMENTS AND PROOF FOR RECORD**

Art. 6602. 6797-8-9, 4613-14-15, 4305-6-7 Before whom acknowledgments made

The acknowledgment or proof of an instrument of writing for record may be made within this State before:

1. A clerk of the district court.
2. A judge or clerk of the county court.
3. A notary public.

Without the State, but within the United States or their territories before:

1. A clerk of some court of record having a seal.
2. A commissioner of deeds duly appointed under the laws of the State.
3. A notary public.

Without the United States before:

1. A minister, a commissioner or charge d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made.
2. A consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul or consular agent of the United States, resident in the country where proof or acknowledgment is made.
3. A notary public.

The acknowledgment or proof of an instrument of writing for record may be made by a member of the Armed Forces of the United States or the Auxiliaries thereof without the territorial confines of the United States before the following:

1. Any commissioned officer in the Armed Forces of the United States of America, in the Auxiliaries thereto, or any commissioned officer in the Armed Force Reserve of the United States of America or any Auxiliary thereto. As amended Acts 1943, 48th Leg., p. 49, ch. 45, § 1.

TITLE 116—ROADS, BRIDGES, AND FERRIES

CHAPTER ONE—STATE HIGHWAYS

1. STATE HIGHWAY DEPARTMENT

- Art.
6669b. Exchange of engineering employees with Mexico [New].
- 6673—c. Farm-to-market roads; designation of county roads as [New].
- 6673—d. Flight strips and roads to military reservations; agreements with United States Public Roads Administration [New].

2. REGULATION OF VEHICLES

- Art.
6687b—1. School and common carrier motor vehicles, persons 17 or over may drive during war [New].

1. STATE HIGHWAY DEPARTMENT

Art. 6669b. Exchange of engineering employees with Mexico

Section 1. The Texas Highway Commission is hereby authorized to employ not to exceed five (5) citizens of the Republic of Mexico who are either student or graduate engineers, for a period of not more than six (6) months, and to pay such employees for their services out of the State Highway Fund, provided the Republic of Mexico will employ an equal number of the engineers of the Texas Highway Department in similar work in the Republic of Mexico and pay them for their services for similar periods of time.

Sec. 2. The Texas Highway Commission is further authorized to grant leaves of absence to not to exceed five (5) of its engineering employees for the purpose of accepting employment with the Republic of Mexico as provided in Section 1.

Sec. 3. The provisions of this Law shall be cumulative of all laws on the subject not in actual conflict herewith and all laws or 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, and in case of such conflict the provisions of this Act shall control and be effective. Acts 1943, 48th Leg., p. 560, ch. 331.

Approved May 14, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 4 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act authorizing the Texas Highway Commission to exchange engineering employees with the Republic of Mexico for

a period of six (6) months: providing for the payment of such employees for their services; providing for leaves of absence of employees of the Texas Highway Commission for the purpose of accepting employment by the Republic of Mexico: making the Act cumulative; providing a repealing clause: and declaring an emergency. Acts 1943, 48th Leg., p. 560, ch. 331.

Art. 6673—c. Farm-to-market roads; designation of county roads as

Section 1. The State Highway Commission is authorized to designate any county road in the state as a farm-to-market road for purposes of construction, reconstruction, and maintenance only, provided that the Commissioners Court of the county in which any such county road is located shall pass and enter in its minutes an order waiving any rights such county may have for participation by the state in any indebtedness incurred by the county in the construction of such county road; and provided further that the State Highway Commission and the Commissioners Court of the county in which any such road is located may enter into a contract that shall set forth the duties of the state in the construc-

tion, reconstruction, and maintenance of the county road in consideration of the county and/or road district relinquishing any and all claims for state participation in any county, road district, or defined road district bonds, warrants, or other evidences of indebtedness outstanding against such road for the construction or improvement of the road before being designated by the State Highway Commission.

Sec. 2. It is hereby declared to be the policy of the state that the assumption by the state of the obligation to construct and maintain such roads designated by the State Highway Commission as farm-to-market roads under the provisions of this Act constitutes full and complete compensation for any and all funds that might have been expended by any county, road district, or defined road district in the construction and maintenance of said road prior to its designation by the State Highway Commission as a farm-to-market road.

Sec. 3. This Act shall be cumulative of all other laws on this subject, but in the event of a conflict between the provisions of this Act and any other Act on this subject, the provisions of this Act shall prevail. Acts 1943, 48th Leg., p. 365, ch. 244.

Approved and effective May 6, 1943.

Section 4 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the State Highway Commission to designate any county road as a farm-to-market road for construction, reconstruction, and maintenance

only; authorizing counties of the state to enter into contracts with the State Highway Commission with reference to said roads; providing that the indebtedness incurred in constructing such roads shall not participate in the County and Road District Highway Fund; declaring the state policy with reference to such roads, and declaring an emergency. Acts 1943, 48th Leg., p. 365, ch. 244.

Art. 6673—d. Flight strips and roads to military reservations; agreements with United States Public Roads Administration

Section 1. In order to facilitate the war effort, the Texas State Highway Department, upon request of the Commissioner of Public Roads of the United States, is hereby authorized to enter into agreements with the Public Roads Administration in the making of surveys, plans, specifications, and estimates for, and in the construction and maintenance of, flight strips and of roads and bridges necessary to provide access to military and naval reservations, to defense industries and defense industry sites, and to sources of raw materials, and for replacing existing highways and highway connections shut off from general public use at military and naval reservations and defense industry sites, and in the manner authorized by the highway laws of Texas, may enter into contracts for the construction of any such flight strips or roads, or may perform such construction and maintenance work by a force account when such construction and maintenance work, including the costs of surveys, plans, specifications, and estimates, is paid for in whole by Federal funds.

Sec. 2. The authority conferred upon the Texas State Highway Department by this Act shall remain in effect during the continuance of the emergency declared by the President May 27, 1941, and for a period of six (6) months thereafter.

Sec. 3. If any section, sub-section, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, sub-sections, sentences,

clauses or phrases be declared unconstitutional. Acts 1943, 48th Leg., p. 363, ch. 241.

Approved and effective May 6, 1943.

Section 4 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the State Highway Department of Texas to enter into agree-

ments with the Public Roads Administration of the United States for the construction and maintenance of flight strips and of certain classes of roads in order to facilitate the war effort; providing a savings clause, and declaring an emergency. Acts 1943, 48th Leg., p. 363, ch. 241.

1A. CONSTRUCTION AND MAINTENANCE

Art. 6674q—1. Declaration of policy of state with reference to building, maintaining and financing state designated roads

It is expressly recognized and declared that all highways now or heretofore constituting a part of the system of State Highways and that all roads not constituting a part of such system, which have been constructed in whole or in part from the proceeds of bonds, warrants, or other evidence of indebtedness issued by counties of the State of Texas, or by defined road districts of the State of Texas, under the laws authorizing the same, have been and are and will continue to be beneficial to the State of Texas at large, and have contributed to the general welfare, settlement, and development of the entire state, and that, by reason of the foregoing, a heavy and undue burden was placed, and still rests, upon the counties and defined road districts and their inhabitants, and both a legal and moral obligation rests upon the state to compensate and reimburse such counties and defined road districts which, as aforesaid, have performed functions resting upon the state, and have paid expenses which were and are properly state expenses; all for the use and benefit of the state, and to the extent provided herein that the state provide funds for the further construction of roads not designated as a part of the State Highway System.

Having heretofore, by an Act of the Legislature (Chapter 13, Acts of the Third Called Session of the 42nd Legislature in 1932), taken over, acquired, and purchased the interest and equities of the various counties and defined road districts in and to the highways constituting a part of the system of then designated State Highways, it is further declared to be the policy of the state to take over, acquire, purchase, and retain the interest and equities of the various counties and defined road districts in and to the highways, not previously taken over, acquired, and purchased and constituting on January 2, 1939, a part of the system of designated State Highways, and to acquire and purchase the interest and equities of the various counties and defined road districts in and to the roads not constituting a part of the system of designated State Highways as of January 2, 1939, and under the provisions of this Act to acquire such interest and equities in such roads hereafter to be constructed with money furnished by the state, and to reimburse said counties and districts therefor, and to provide for the acquisition, establishment, construction, extension and development of the system of designated State Highways of Texas, from some source of income other than the revenues derived from ad valorem taxes, it being expressly provided herein that the state is not assuming, and has not assumed, any obligation for the construction, extension, and development of any of the highways thus acquired and purchased which do not constitute a part of the system of designated State Highways. And it is hereby determined that the further provisions of this Act constitute fair, just, and equitable com-

compensation, repayment, and reimbursement to said counties and defined districts and for their aid and assistance to the state in the construction of State Highways and for the construction of said roads which are ancillary to, but do not constitute a part of said System of State Highways, and fully discharges the legally implied obligations of the state to compensate, repay, and reimburse the agencies of the state for expenses incurred at the instance and solicitation of the state, as well as for expenses incurred for the benefit of the state, and fully discharges the state's legally implied obligation to such counties and defined road districts to provide additional funds for the further construction of roads not designated as a part of the State Highway System. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

Approved May 14, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 3 of the Act of 1943 declared an emergency but such emergency clause

was inoperative under Const. art. 3, § 39.

Relief to political subdivisions and tax districts under Federal Bankruptcy Laws, see art. 1024a.

Art. 6674q—2. Definitions

By the expression "defined road districts" or "road districts" or "districts" used in this Act, is meant any defined road district of the state or any Justice or Commissioners Precinct acting as a road district or any road district located in one or more than one county.

By the expression "roads" or "road" as used in this Act, is meant roads, road beds, bridges, and culverts.

By the expression "highways," "State Highways" and "State Designated Highways" are meant roads which prior to January 2, 1939, had become a part of the System of designated State Highways, including roads still constituting a part of such system on said date and those which theretofore constituted a part of such system, but whose status had been lost through change, relocation or abandonment and including roads concerning which the State Highway Commission had prior to January 2, 1939, indicated its intention to designate, evidencing such intention in the official records or files.

All roads which prior to January 2, 1941, had not become a part of the system of State Designated Highways, for convenience in this Act, are called "lateral roads."

The term "Board" as used in this Act, when the contrary is not clearly indicated, shall mean the "Board of County and District Road Indebtedness."

The term "fund" as used in this Act, when the contrary is not clearly indicated, shall mean the "County and Road District Highway Fund."

The expression "eligible obligations" as used in this Act shall mean obligations, the proceeds of which were actually expended on State Designated Highways. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

Art. 6674q—4. Improvements under control of State Highway Department

All further improvement of said State Highway System shall be made under the exclusive and direct control of the State Highway Department and with appropriations made by the Legislature out of the State Highway Fund. Surveys, plans and specifications and estimates for all further construction and improvement of said system shall be made, prepared and paid for by the State Highway Department. No further improvement of said system shall be made with the aid of or with any moneys furnished by the counties except the acquisition of right-of-ways which may be furnished by the counties, their subdivisions or defined

road districts. But this shall in nowise affect the carrying out of any binding contracts now existing between the State Highway Department and the Commissioners Court of any county, for such county, or for any defined road district. In the development of the System of State Highways and the maintenance thereof, the State Highway Commission shall from funds available to the State Highway Department, provide:

(a) For the efficient maintenance of all highways comprising the State System.

(b) For the construction, in co-operation with the Federal Government to the extent of Federal Aid to the state, of highways of durable type of the greatest public necessity.

(c) For the construction of highways, perfecting and extending a correlated system of State Highways, independently from state funds. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

Art. 6674q—5. Appropriations from State Highway Fund

All moneys now or hereafter deposited in the State Treasury to the credit of the "State Highway Fund" including all Federal Aid money deposited to the credit of said fund under the term of the Federal Aid Highway Act, shall be subject to appropriation by the Legislature for the specific purpose of the improvement of said System of State Highways by the State Highway Department. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

Art. 6674q—6. Allocation of funds from gasoline tax

Each month the Comptroller of Public Accounts after computing and ascertaining the maximum amount of refunds that may be due by the state on the business of selling gasoline, as provided in Section 17, Chapter 88, General Laws, Acts of the Second Called Session of the 41st Legislature, as amended by Chapter 104, General Laws, Acts of the Regular Session of the 42nd Legislature,¹ shall deduct same from the total occupation or excise tax paid on the business of selling gasoline, as imposed by Section 17, Chapter 98, General Laws, Acts of the Regular Session of the 42nd Legislature, as amended,² and beginning with said taxes collected on or after October 1, 1932, shall, after deducting the said maximum amount of refunds, allocate and place the remainder of said occupation or excise tax on the business of selling gasoline, in the State Treasury as provided by law, in the proportion as follows: one-fourth ($\frac{1}{4}$) of such occupation or excise tax shall go to, and be placed to the credit of, the Available Free School Fund; one-fourth ($\frac{1}{4}$) of the same shall go to, and be placed to the credit of a fund to be known as the 'County and Road District Highway Fund', subject to the provisions and limitations of Section 3 of this Act;³ the remainder of such occupation or excise tax shall go to, and be placed to the credit of the State Highways Fund, for the construction and maintenance of the public roads of the state, constituting and comprising the System of State Highways of Texas, as designated by the State Highway Commission of Texas. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

¹ Article 7065n, subds. 3, 5.

² Articles 7065a, 7065e, 7065f, 7065h, 7065j;
Vernon's Rev. Pen. Code, art. 141c.

³ Article 6674q—4.

Art. 6674q—7. County and Road District Highway Fund; distribution; Board of County and District Road Indebtedness continued; powers and duties; Lateral Road Account

(a) All bonds, warrants or other evidences of indebtedness heretofore issued by counties or defined road districts of this state, which ma-

ture on or after January 1, 1933, insofar as amounts of same were issued for and proceeds have been 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 which subsequent to such date and prior to January 2, 1939, have been designated a part of the System of State Highways or any road that heretofore had constituted a part of said System and which has been or may be changed, relocated or abandoned, whether said indebtedness is now evidenced by the obligation originally issued or by refunding obligations or both, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund, subject to the provisions of this Act; provided, that such indebtedness, the proceeds of which have been expended in the construction of roads which have been designated as a part of the State Highway System after September 17, 1932, and prior to January 2, 1939, shall participate in said County and Road District Highway Fund as of the date of the designation of said road as a part of the State System; provided further that any participation in said fund by any county or defined road district shall be less the amount of money which it was required to accumulate in the sinking fund under the provisions of the Statutes and order of the Commissioners Court authorizing the issue of said eligible obligations, and the tax levy authorized at the time of issuance thereof for the time such obligations have run or may have run, regardless of whether the full amount of said fund is, or may be, actually on hand and to the credit of the sinking funds of such county or defined road district. It is provided expressly in this connection that the term 'sinking funds' shall include only those funds required under the law for the retirement of principal and interest, and shall not include any excess or surplus which may have been accumulated by any county or defined road district above the legal requirements. The amount of such eligible indebtedness shall be determined as hereinafter provided. Provided further, 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.

In the event that State Highway Commission has, on a date prior to January 2, 1939, recorded a conditional designation, and all conditions precedent to the official designation thereof have been met or performed in a manner satisfactory and acceptable to the Highway Commission, and the Highway Commission officially enters of record its acceptance and designation of such road as a part of the State Highway System for maintenance, then the provisions of this Act shall apply as if the said roads had been actually designated prior to January 2, 1939.

All bonds, warrants or other legal evidences of indebtedness outstanding as of the date of the designation hereinafter referred to, and issued by a county or defined road district prior to January 2, 1939, insofar as amounts of same were issued and the proceeds actually expended in the construction of roads that have been officially designated as a part of the State Highway System subsequent to January 2, 1939, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund as of the date of designation of said road as a part of the State Highway System. The amount of such bonds, warrants, or other legal evidences of indebtedness outstanding as of the date of designation of such road as a part of the State Highway System, shall be eligible for participation in the same manner as provided for other bonds under this Act.

In addition to and regardless of the other provisions of this Act, all bonds, warrants or other legal evidences of indebtedness voted, or issued without being voted by a county, road district or defined road district prior to January 2, 1939, insofar as amounts of same were or may be issued and the proceeds actually expended in the construction of roads which are now a part of the designated System of State Highways or which have since, or which may hereafter become a part of the designated System of State Highways, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund the same as provided for other bonds under this Act, and as of the date of the designation of said road as a part of the State Highway System; and where such bonds or warrants were voted prior to January 2, 1939, and prior to the designation of the road as a State Highway and which have not yet been issued or expended, the county or defined road district may issue such bonds or warrants or other legal evidence of indebtedness and place the proceeds in escrow with the State Highway Commission for the construction of such road under plans, contracts, specifications and supervision of the State Highway Department, and when so expended the bonds, warrants, or other evidences of indebtedness shall be eligible to participate in the County and Road District Highway Fund the same as if the bonds had been issued and expended prior to January 2, 1939. Provided, further, that all such bonds or warrants to be hereafter sold pursuant to this paragraph by a county or defined road district which will be eligible for participation in the County and Road District Highway Fund under the provisions of this Section, shall be sold subject to the approval of the Board of County and District Road Indebtedness, as to amounts, maturities and interest rates.

(b) The Board of County and District Road Indebtedness, created by Chapter 13, Acts of the Third Called Session of the 42nd 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 employee 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 42nd Legislature,¹ and said Board is hereby authorized to call on any County Judge or any county or state official or employee, 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 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 shall have been expended partly on designated State highways, or highways heretofore con-

stituting 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 of 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 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) On September 1st of each year after the Board has paid off and discharged all eligible obligations maturing during the preceding fiscal year, together with the interest on such obligations and the sinking fund requirements accruing thereon out of the County and Road District Highway Fund, any surplus remaining in said fund over and above Three Million (\$3,000,000.00) Dollars shall be set aside and credited by the State Treasurer to the respective funds hereinafter named as follows: one-half ($\frac{1}{2}$) of said surplus shall be transferred to the State Highway Fund, and one-half ($\frac{1}{2}$) shall be credited to an account to be known as the 'Lateral Road Account' to be distributed and expended as hereinafter provided.

As soon as practicable after the passage of this Act and before the Lateral Road Account is allocated to the counties, the Board shall determine the amount each county and each defined road district has paid since January 1, 1933, under the provisions of Chapter 13, Acts of the Third Called Session of the 42nd Legislature, as amended,¹ toward its debt service upon bonds which at the time of payment were eligible to participate in the County and Road District Highway Fund, and shall deduct from the amount paid by such county or defined road district any and all advancements made by the Board to such county or defined road district in adjusting, refunding, or prepaying the eligible obligations of such county or defined road district, and after making such deductions, the Board shall credit the Lateral Road Account of each county or defined road district with the net balance contributed by such county or road district toward the retirement of said eligible obligations, and said funds so credited to any county or defined road district may be used or expended by the counties and defined road districts for the purposes authorized in this Section.

Not later than September 15th of each year the said Board shall ascertain the exact amount of money which has been allocated to the said Lateral Road Account for such fiscal year and which at that time is available. The Board shall allocate to each county its proportionate part of the moneys in said Lateral Road Account, which allocation shall be determined in the following manner:

(1) One-tenth (1/10) of the money in said account shall be allocated upon the basis of area, determined by the ratio of the area of the county to the total area of the state.

(2) Two-tenths (2/10) of the moneys in said account shall be allocated on the basis of population according to the last preceding Federal Census, determined by the ratio of the population of the county to the total population of the state.

(3) Three-tenths (3/10) of the moneys in said account shall be allocated upon the basis of the number of motor vehicles registered during the last preceding registration year, determined by the ratio of the number of such vehicles registered in the county to the total number registered in the state as shown by the official report of the State Highway Department.

(4) Four-tenths (4/10) of the moneys in said account shall be allocated to the counties on the basis of lateral road mileage, determined by the ratio of the mileage of the lateral roads in the county to the total mileage of the lateral roads in the state as of January 1, 1939, as shown by the records of the State-Federal Highway Planning Survey and the State Highway Department.

If the records of the Highway Department and the State-Federal Highway Planning Survey are such that, in the opinion of the Highway Commission or of any county, there is a reasonable doubt as to their accuracy, the Highway Commission may authorize an independent survey to be made of that county's lateral road mileage upon its own motion or on the application of said county. The expense of such survey shall be borne by the county.

The moneys allocated to each county from the Lateral Road Account shall be used by said county first for paying the principal, interest, and sinking fund requirements maturing during the fiscal year for which such money was allocated to such county on bonds, warrants, and other legal obligations issued prior to January 2, 1939, the proceeds of which were actually expended in acquiring right-of-ways for State Designated Highways, it being the intention of the Legislature to designate and set apart sufficient money to pay off and discharge said outstanding obligations incurred for right-of-way acquisition. The Board shall require from each county a sworn statement of the outstanding right-of-way indebtedness incurred on State Designated Highways, and in the event a false statement is furnished the Board by any county, or where any county fails or refuses to file a report, then such county shall be denied any benefits under this Section; it being the duty of the Board before distributing any funds to any county under this Section where such county submits a report that it has no right-of-way indebtedness, or where said report is vague or indefinite, to audit and determine the correctness of such report. Funds remaining in the Lateral Road Fund of any county, after the payment of said right-of-way obligations, shall be used by the county for paying the maturing principal, interest, and sinking fund requirements, due by the county in that fiscal year on bonds, warrants, or other evidences of indebtedness which were legally issued by such county or road districts prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads. Payment to be made ratably upon the principal and

interest on the maturing road bond obligations of said county for such fiscal years. Any funds remaining in the Lateral Road Fund of any county after the payment of said principal, interest, and sinking fund requirements due or maturing in that fiscal year on bonds or warrants which were legally issued by such county or road district prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads, may be used by the county under direction of the Commissioners Court for any one or all of the following purposes: (a) for the acquisition of right-of-ways for county lateral roads and for the payment of legal obligations incurred therefor prior to January 2, 1939; (b) for the construction or improvement of county lateral roads; (c) for the purpose of supplementing funds appropriated by the United States Government for Works Progress Administration highway construction, and such other grants of Federal Funds as may be made available to the counties of this state for county lateral road construction; and (d) for the purposes of cooperating with the State Highway Department and the Federal Government in the construction of farm-to-market roads. Provided that when such funds are used for the construction or improvement of county lateral roads, such construction or improvement shall be made under the supervision of a competent engineer.

After such allocation has been made to the several counties in the state the Board shall in writing notify the Chairman of the Commissioners Court of each county of the amount which has been credited to that county. After receiving said notice, the Commissioners Court shall, within sixty (60) days, notify the Board of the manner in which it has exercised its option as to the one or more specified uses of said money permitted under this Act.

Such money shall be applied pro-rata to the payment of the debt service requirements of all issues of lateral road indebtedness of the county and all included defined road districts, in the proportion that the debt service requirements of each issue bears to the aggregate debt service requirements of all issues for that year. When any issue of obligations which will receive aid under this Section is already listed with the Board of County and District Road Indebtedness, the Board shall credit the amount applicable to said issue to the account of said issue in the State Treasury. As to all other issues of obligations, which will receive aid under this subsection (h), the Commissioners Court of the specific counties affected shall have the right, if so desired, to utilize the facilities of the State Board of County and District Road Indebtedness in paying the amounts of principal and interest on said issues substantially in the manner that payments are effected as to such eligible obligations.

In the event that the funds so received by the county from the Lateral Road Account are in excess of the amount required to meet the principal and interest of its maturing road bond obligations for the next fiscal year, the Commissioners Court may elect to use such excess money allocated to it from the Lateral Road Account, and in such event, it shall notify, in writing, the said Board, of its election to make use of said money. Whereupon, said Board shall remit said balance to be utilized for such purpose to the County Treasurer of such county, said money to be deposited by the County Treasurer in accordance with law, and the same shall be utilized by the county, acting through the Commissioners Court, for the construction of lateral roads. Each county may call upon the State Highway Commission to furnish adequate technical and engineering supervision in making surveys, preparing plans and specifications, preparing project proposals and supervising actual construction.

The actual cost of such aid in supervision shall be paid by the county as a charge against its project.

In order that maximum benefits may be obtained in the expenditures of the State Fund made available to the counties under this Act for the construction of county lateral roads, and so that the counties may have the benefit of wide-spread competition among contractors in bidding on such projects, such counties may, in their discretion, authorize the State Highway Commission to receive bids in Austin on all such construction in the same manner as is now provided by law for the award of contracts on State Highways.

When any road which shall have been constructed by any county wholly from the County Lateral Road Account shall be designated by the State Highway Commission as a part of the System of Designated State Highways, the designation of such road by the State Highway Commission shall constitute a full and complete discharge of any and all obligations of the state, moral, legal, or implied, for the payment of such highway.

In the event the Commissioners Court elects to cooperate with the Highway Department in the building of, or in the construction of, farm-to-market roads, it shall by proper resolution entered upon its minutes, authorize the State Treasurer to pay such funds to be so used, over to the State Highway Department for use on certain designated projects. Regardless of how the funds allocated to the counties from the Lateral Road Account are used, the County Judge of each county shall file with the Board on or before October 1st of each year, a verified report showing the manner in which the said funds have been expended, the nature and location of the roads constructed, and such other information as the Board may from time to time require.

(i) 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, but in no event at a greater rate of interest than that provided in the original issue. 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, shall be complied with.

The Board of County and District Road Indebtedness is hereby made the refunding agent of each county, and as such agent is directed to cooperate with the Commissioners Court of each county in effecting the necessary refunding of each issue of bonds; the Board shall prepare the necessary refunding orders for the Commissioners Court, prepare the proceedings and act in an advisory and supervisory capacity to the

end that the expense of refunding any issue of bonds may be reduced to the minimum. Provided that no commission, bonus, or premium shall be paid by any county 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. All actual expense incurred in the refunding of its eligible indebtedness, including cost of proceedings, printing, legal approval and interest adjustment, shall be chargeable against the money theretofore or thereafter collected from ad valorem taxes, or at the option of the Commissioners Court conducting such refunding, may be paid from any other money under its control and available for the purpose, provided no obligations for such expense items shall be incurred or paid without affirmative approval by said Board.

(j) All moneys to be deposited to the credit of the County and Road District Highway Fund, from September 1, 1943, to August 31, 1945, both inclusive, 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, for the purposes and uses more specifically set forth in this Act, including the payment of principal, interest and sinking fund requirements on all eligible obligations maturing up to and including August 31, 1945. And each year thereafter until all of such eligible obligations are fully paid, all 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 such counties and defined road districts, and shall first be subject to the appropriation for the payment of interest, principal and sinking funds maturing from time to time on said eligible obligations, and then for the other uses specified and permitted in this Act.

In the event any county, road district, or defined road district has since September 1, 1941 made any payment on eligible bonds, warrants, or other evidence of eligible indebtedness as defined under the terms of this Act, then such county, road district, or defined road district shall be reimbursed by the Board of County and District Road Indebtedness in the amount of the payment so made on such eligible obligations.

(k) 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 or voucher claims 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, by 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. In instances wherein counties or defined road districts therein shall have arranged with the Board to pay principal or interest thereon, of outstanding lateral road indebtedness, the Board, and the State Comptroller of Public Accounts, and the State Treas-

urer shall follow, insofar as practicable, the procedure prescribed in this sub-section (k) for the payment of the principal and interest of eligible obligations.

(l) 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, and one other member of said Board, and the State Comptroller of Public Accounts. The compensation of all employees of said Board shall be fixed by the Legislature. All employees of said Board of County and District Road Indebtedness shall be bonded, the amount of such bond being set by the Board.

(m) 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, 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 provisions thereof. 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 sub-divisions of this state which mature within the current biennium in which such securities are purchased; 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, irrespective of maturity dates. 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 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 and warrant as required by the Constitution and Statutes of said state, shall be exempt from the provisions of this sub-section (m) 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 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, 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 counties so exempt shall furnish the Board 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 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.

(n) The Board 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 and of the State Treasurer, at any reasonable time, for the purpose of making any investigation or audit of the accounts affecting its county.

(o) The Board shall, within ninety (90) days after the close of each fiscal year, make a complete accounting for the preceding year to the Governor of this state, showing in such report its act, 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.

(p) 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 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.

(q) 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.

(r) Upon notice from the Board 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 as being necessary to supplement the amounts previously placed to the credit of any such county or defined road district by said Board under the provisions of this Act. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

¹ Article 6674q—1 et seq.

Art. 6674q—8. Restrictions as to extending State credit

No provision of this Act shall be construed to authorize the giving or lending of the credit of the state to any county or district or to pledge the credit of the state in any manner whatever for the payment of any of the outstanding road indebtedness, herein referred to, of the counties or districts of the state. It is hereby declared that all eligible indebtedness, as herein defined, shall remain indebtedness of the respective counties or defined road districts which issued it, and said counties or defined road districts shall remain liable on said indebtedness according to its terms and tenor; and it is not the purpose or intention of this Act, or any part hereof, to obligate the State of Texas, directly or indirectly or contingently, for the payment of any such obligations, or that the State of Texas should assume the payment of said obligations; and this Act is not to be construed as obligating the State of Texas to the holders of any of said obligations to make any payment of the same, or any part thereof, nor shall such holders have any rights to enforce the appropriation of any of the moneys hereinabove provided for, nor shall any provision hereof constitute a contract on the part of the state to make money available to any county for the construction of additional lateral roads. The provisions hereof are intended solely to compensate, repay, and reimburse said counties and districts for the aid and assistance they have given to the state in furnishing, advancing and contributing money for building and constructing State Highways. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

Art. 6674q—8a. Bonds of navigation districts; preference over other bonds by Board of County and Road District Bond Indebtedness unauthorized

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 13 of the Acts of the 42nd Legislature of Texas,¹ passed at its Third Called Session, as amended by the Acts of the 43rd Legislature of Texas, Regular Session, 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 are provided by said Chapter 13, Acts of the 42nd Legislature of Texas, Third Called Session, as amended by the Acts of the 43rd Legislature of Texas, Regular Session,¹ for the redemption of county and road district bonds.

"It is expressly provided that the Board of County and District Road Indebtedness shall not be authorized to give the bonds herein referred to preference over other similar bonds eligible under said Bond Act; 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 Act; and in no event shall said Board be authorized to assume in excess of the bal-

ance due on the bonds for the said bridge construction at the effective date of this Act. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

¹ Article 6674q—1 et seq.

Art. 6674q—8c. Lateral Road Account; punishment for unauthorized use

It shall be unlawful for any County Judge or any County Commissioner, while acting in his official capacity or otherwise, to use any money out of the Lateral Road Account for any purpose except the purposes enumerated in this Act. If any County Judge or any County Commissioner shall knowingly expend or use, or vote for the use of, or agree to expend or use any sum of money accruing to any county in this state from the Lateral Road Account, for any purpose not authorized by this Act, or shall knowingly make any false statement concerning the expenditure of any such money, he shall be deemed guilty of a felony, and upon conviction shall be punished by confinement in the State Penitentiary for not less than two (2) years nor more than five (5) years. As amended Acts 1943; 48th Leg., p. 494, ch. 324, § 1.

Art. 6674q—9. Legislative policy; State title to roads

If succeeding Legislatures shall continue to carry out the policy herein defined by authorizing a similar appropriation of funds from time to time, (a) then whenever the eligible obligation shall have been fully paid as herein provided, as to or for any county or defined road district according to the provisions of this Act, then, and in that event, the title and possession of all roads, road beds, bridges, and culverts in such county or defined road district, which are included in the system of Designated State Highways, shall automatically vest in fee simple in the State of Texas; in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; and (b) whenever the interest and principal necessary to retire the outstanding indebtedness owed for lateral roads shall have been fully paid as herein provided, as to, or for any county or defined road district, according to the provisions of this Act, then, and in that event, the title of all roads, road beds, bridges, and culverts in such county or defined road district, pertaining to the lateral roads constructed with the proceeds of such indebtedness, shall automatically vest in the State of Texas; but the possession thereof shall remain in such county or defined road district, and in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; provided that when the right-of-way, or any part thereof, pertaining either to a State Highway or a lateral road, has been abandoned because of the abandonment of such road for all public purposes, and such right-of-way, or any part thereof, was donated by the owner of the land for right-of-way purposes, then, and in that event, the title to the said right-of-way shall vest in said owner, his heirs or assigns; provided, however, that nothing in this Act shall prevent the State Highway Commission from changing or abandoning any State Highway, and if the Commission shall change or abandon any State Highway in any county, the Commissioners Court of such county shall have the right to assume jurisdiction over such portion of such highway so abandoned by the State Highway Commission. Likewise, the title to additional lateral roads, when constructed, shall vest in the State of Texas. Provided, however, that this Act neither imposes the obligation on, nor confers the right in, the State of Texas, to maintain and lay out any roads except those con-

stituting a part of the designated State Highway System as hereinabove in this Act defined. The obligation to maintain or lay out all other roads, including lateral roads and additional lateral roads as defined in this Act, shall remain undisturbed in the several Commissioners Courts as agents of the state. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

Art. 6674q—10. Partial invalidity

If any Section, sub-section, paragraph, sentence, clause, or provision of this Act shall, for any reason, be held invalid, such invalidity shall not affect any other portion of this Act or the application of such Section, sub-section, paragraph, sentence, clause, or provision to any other person or situation but this Act shall be construed and enforced as if such invalid provisions had not been contained therein. As amended Acts 1943, 48th Leg., p. 494, ch. 324, § 1.

2. REGULATION OF VEHICLES

Art. 6675a—13. Number plates for years 1943, 1944 and 1945

The State Highway Department is hereby authorized to issue for the 1943, 1944, and 1945 motor vehicle registration years a single plate or plates of metal or other material, symbols, tabs, or other devices which when attached to a motor vehicle having been duly registered for the preceding registration year shall for the purpose of this Act be deemed to be the legal registration insignia for the registration year for which issued. As amended Acts 1943, 48th Leg., p. 56, ch. 51, § 1.

Approved and effective March 6, 1943.

Sections 2, 3 and 5 of the amendatory Act of 1943 read as follows:

"Sec. 2. Upon payment of the prescribed registration fee by applicants for motor vehicle registration, the State Highway Department is authorized to issue through the County Tax Assessors-Collectors a single plate or plates of metal or other material, symbols, tabs, or other devices, to be attached to a motor vehicle having duly authorized license plate, plates or other insignia for the preceding registration year. Motor vehicles not previously registered may be issued a regular metal license plate or plates if such be available or may be issued symbols, tabs, or other devices which shall be deemed to be the legal registration insignia for the registration year in which the vehicle is registered.

"Sec. 3. The owner of each motor vehicle reregistered for the 1943 registration year is hereby directed and required to retain in place and in use on such vehicle the plate or plates issued for the registration year 1942 in addition to the

metal tabs issued for the 1943 registration year. In the 1944 and 1945 registration years the legal registration insignia issued by the State Highway Department through the County Tax Assessors-Collectors shall be attached to the vehicle in place or places prescribed by the State Highway Department in such manner as to be clearly visible.

"Sec. 5. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional."

Section 6 repealed all laws and parts of laws to the extent of such conflict. Section 7 declared an emergency and provided that the Act should take effect from and after its passage.

See note to art. 6675a-1.

Art. 6675a—13½. Designs and specifications of number plates; requisition and purchase, approval

The State Highway Department shall prepare the designs and specifications for the single plate or plates of metal or other material, symbols, tabs, or other devices selected by the State Highway Commission to be used as the legal registration insignia and requisition and purchase of

the same shall be submitted to the State Board of Control for approval. As amended Acts 1943, 48th Leg., p. 56, ch. 4.

Approved and effective March 6, 1943.

See notes to art. 6675a—13.

Art. 6687b. Drivers', chauffeurs', and commercial operators' licenses; accident reports

ARTICLE III—FEES

Sec. 15. Disposition of fees.

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 to the Department at Austin, Texas, and all such fees so collected shall be deposited in the State Treasury in a fund to be known as the "Operator's and Chauffeur's License Fund".

On September 1, 1943, and on September 1st of each and every year thereafter, all over Seventy-five Thousand (\$75,000.00) Dollars of the remaining balance in such Operator's and Chauffeur's License Fund shall be transferred to and become a part of the General Revenue Fund of the State of Texas. As amended Acts 1943, 48th Leg., p. 469, ch. 313, § 1.

Amendment of 1943 to section 15 approved May 13, 1943 and effective Sept. 1, 1943.

Section 3 of the amendatory Act of 1943 read as follows: "If the foregoing provisions shall be invalid as they may apply to any special fund, the Legislature

hereby declares that it would nevertheless have provided for the transfers from the other special funds named herein."

Section 4 declared an emergency and provided that the Act should take effect on Sept. 1, 1943.

Art. 6687b—1. School and common carrier motor vehicles, persons 17 or over may drive during war

Until the conclusion of the present war with Germany, Italy and Japan, persons seventeen (17) years of age and over who have been licensed as chauffeurs by the Department of Public Safety shall be authorized to drive any motor vehicle while in use as a school bus for the transportation of pupils to and from school, or any motor vehicle in use as a public or common carrier of persons; providing that any person under twenty-one (21) years of age who drives said school buses must be recommended by the County Superintendent and local school principal, and all statutes now prohibiting the operation of such motor vehicles by persons under the age of twenty-one (21) years are suspended until the conclusion of hostilities. Provided, however, that this Act will not apply to drivers of vehicles operated under permit or certificate issued by the Railroad Commission of Texas. Acts 1943, 48th Leg., p. 41, ch. 38, § 1.

Approved and effective March 1, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to authorize persons licensed as

chauffeurs and seventeen (17) years of age or over to operate motor vehicles used as public or common carriers of persons or school buses during the present war, and declaring an emergency. Acts 1943, 48th Leg., p. 41, ch. 38.

CHAPTER TWO—ESTABLISHMENT OF COUNTY ROADS

Art. 6702. [6859] [4670] "Public roads"

Farm-to-market roads, designation of county roads as, see article 6673c.

Art. 6703. 6860-1-2-76-6902 Commissioners courts: powers

Maintenance of detour roads, see art. 6674o.

CHAPTER THREE—MAINTENANCE OF ROADS

4. OPTIONAL ROAD LAW

Art.

6770a-3. Fayette County, road duty in; payment exempting [New].

4. OPTIONAL ROAD LAW

Art. 6770a-1. Repealed. Acts 1943, 48th Leg., p. 329, ch. 210, § 2. Eff. 90 days after May 11, 1943, date of adjournment

Art. 6770a-3. Fayette County, road duty in; payment exempting

Road Duty. That in and for Fayette County, Texas, all male persons between the ages of twenty-one (21) and forty-five (45) years who do not reside in an incorporated city, town, or village in said county shall be liable to work, repair, and clean out the public roads under the provisions of this title subject to the following conditions:

1. Ministers in the active discharge of their duties, invalids, members of volunteer fire companies in the active discharge of their duties, and persons who have not been residing in Fayette County in which they are summoned to work for fifteen (15) days immediately preceding such summons shall be exempt.

2. Any person so liable who has been summoned to do such duty may furnish an able-bodied substitute to work in his place. The overseer shall not accept such substitute if he is incapable of performing a reasonable amount of work.

3. Any person so liable may pay the Tax Assessor-Collector of said county on or before the first day of May of each year the sum of Three Dollars (\$3), and he shall be exempt from said public road work.

4. Each person summoned to work on a road shall take with him an ax, hoe, pick, spade, or such tools as the overseer directs, or if he has no such tools, then such other substitute tools as he may have.

5. Each road hand shall perform his duties under the direction of his overseer. No person shall be compelled to do such work more than five (5) days of eight (8) hours efficient service in each year.

6. Summons. Each overseer shall summon in writing the persons he desires for road duty, giving the time and place such persons are required to appear to work on the road, and the number of days such persons shall be required to work. A written summons may be served by leaving the same at the usual place of abode of the person summoned with some person residing at such place who is not less than ten (10) years of age, or by posting it on the door of such abode. The overseer may appoint someone

to summon the hands and such person shall be exempt from road duty as many days as he was actually so engaged. When such persons are summoned, the day they are summoned, they shall be given notice one full day before they are to report for road duty, no previous notice being necessary; provided that said summons shall not be served on any person who is not within the age bracket between the ages of twenty-one (21) and forty-five (45) years. Acts 1943, 48th Leg., p. 329, ch. 210, § 1.

Approved May 3, 1943.

Effective 90 days after May 11, 1943 date of adjournment.

Section 2 of the Act of 1943 repealed article 6770a—1 and also repealed all conflicting laws and parts of laws in so far as they apply to Fayette County.

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing that in and for Fayette County, Texas, there shall be imposed upon all male persons who do not reside in an incorporated city, town, or village the duty of working five (5) days of eight (8) hours efficient service on public roads each year, or the payment on or before

May 1st of each year of the sum of Three Dollars (\$3); making certain exceptions; providing for substitute workers; providing for furnishing tools for such work; providing for the summoning of persons in said County for work on the public roads, said summons when issued shall compel the persons to be given notice one full day before they are to report after summons for road duty; fixing age bracket for persons to be summoned; repealing all laws in conflict herewith in so far as they apply to Fayette County and particularly repealing House Bill No. 709 of the Forty-seventh Legislature; and declaring an emergency. Acts 1943, 48th Leg., p. 329, ch. 210.

TITLE 117—SALARIES

Art.
6826a. Federal victory tax law; state and local officers and employees to comply [New].

Art.
6829a. Waiver of pay by State or District Officers while on military duty [New].

Art. 6826a. Federal victory tax law; state and local officers and employees to comply

For the duration of the present war, all officers and employees of this State and its agencies, instrumentalities, political subdivisions and municipalities, having control over the payment of any salaries or wages to public officers or employees, are hereby authorized and required to comply with the provisions of the Federal Internal Revenue Act of 1942, requiring the withholding of the five per cent (5%) Federal Victory Income Tax¹ from wages paid public officers and employees. Any expenses involved in complying with the provisions of this law may be paid from existing or future appropriations. The provisions of this Act shall be in force and effect only so long as the United States of America is at war with Germany, Japan or Italy. Acts 1943, 48th Leg., p. 3, ch. 3, § 1.

¹ 26 U.S.C.A. Int.Rev.Code, § 450 et seq.

Approved and effective Jan. 19, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act requiring all officers and employees of the State, its agencies, instrumentalities, political subdivisions and municipalities, having control over the pay-

ment of any salaries or wages to public officers or employees, to comply with the provisions of the Federal Revenue Act of 1942 requiring the withholding of the five per cent (5%) Federal Victory Income Tax from wages paid public officers and employees so long as the United States of America is at war with Germany, Japan or Italy; and declaring an emergency. Acts 1943, 48th Leg., p. 3, ch. 3.

Art. 6829a. Waiver of pay by State or District Officers while on military duty

Section 1. That any person holding a State or District office in the State of Texas, whether as a member of the executive, legislative or judicial departments, when called into the military service of either the State or National Governments, is hereby authorized to file with the Comptroller of Public Accounts of the State, a statement or certificate in writing, to the effect that he waives the payment of his salary or pay or the emoluments of his said office during the period of his military service and authorizing the payment of such salary, pay or emoluments of his office to any other person, who, under the provisions of any law of this State is appointed or elected to temporarily fill such civil office during the absence of such officer, such waiver or assignment to terminate immediately upon the release or discharge of said officer from such military service.

Sec. 2. Such waiver or assignment shall be sufficient authority for the Comptroller of Public Accounts of the State of Texas to issue State warrants and to pay such person so holding such officer's position during his absence in military service out of appropriations made by the Legislature for such office.

Sec. 3. The filing with the Comptroller of Public Accounts of the State of Texas of such waiver or assignment provided for in this Act shall never be construed by any Court of this State to be a resignation from his office by the person entering the military service of the State

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

or National Governments or that his office is vacant by reason thereof. Acts 1943, 48th Leg., p. 693, ch. 384.

Approved and effective May 17, 1943.

Section 4 of the Act of 1943 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 waiver of pay by any State or District Officer in any branch of the government while on active

military duty, and for the waiver by him of the emoluments of his office in favor of the person filling his office during such military service; providing such waiver shall be Comptroller's authority to issue warrants; providing such waiver shall not be construed as a resignation from office; and declaring an emergency. Acts 1943, 48th Leg., p. 693, ch. 384.

TITLE 120—SHERIFFS AND CONSTABLES

1. SHERIFFS

Art.

6869e—1. Counties of 500,000 or more; "Night Chief Deputy," appointment and salary of [New].

1. SHERIFFS

Art. 6865. 7119, 4890 Election and term

Additional law enforcement officers in counties having 5000 or more cattle, sheep or goats, see article 1581b.

Art. 6869. 7125, 4896 May appoint deputies, etc.

Counties of 27,235 to 27,300, deputy and special deputy sheriffs in, see article 3912f—1 et seq.

Counties over 48,000, deputy sheriffs in, see article 3902g.

Art. 6869e—1. Counties of 500,000 or more; "Night Chief Deputy," appointment and salary of

In all counties having a population of five hundred thousand (500,000) or more, according to the last preceding Federal Census, in addition to all other deputies, assistants and employees which he is authorized to appoint, the Sheriff shall be entitled to apply for the appointment of a second first assistant, or Chief Deputy, who shall be known as "Night Chief Deputy." Such additional first assistant or Chief Deputy shall be appointed in the method, manner and under the conditions now provided by law for other deputies, and the same rules and regulations fixed by law with respect to the authority and duties of other deputies of this class shall apply to them. This deputy shall receive a salary within the limits now fixed by law for chief deputy, subject to the laws and regulations governing the appointment, employment and payment of other chief deputies. Provided no person shall be appointed Night Chief Deputy who shall not have served as a deputy sheriff for at least two (2) years prior to the date of such appointment. Acts 1943, 48th Leg., p. 77, ch. 61, § 1.

Approved and effective March 11, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to authorize the appointment and employment of a "Night Chief Deputy" in addition to the first assistant or Chief Deputy now authorized, in the sheriff's

office in all counties having a population of five hundred thousand (500,000) or more, according to the last preceding Federal Census, fixing the salary, the method and manner of making the appointment and employment, requiring two (2) years prior service as deputy sheriff as a prerequisite to this appointment; and declaring an emergency. Acts 1943, 48th Leg., p. 77, ch. 61.

TITLE 120A—STATE AND NATIONAL DEFENSE [NEW]

Art. 6889—1. Organization for coordination of defense activities authorized.	Art. 6889—2. Military zones adjacent to military establishments; regulations; enforcement.
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Art. 6889—1. Organization for coordination of defense activities authorized

Section 1. The Governor may establish by proclamation an organization for the coordination of defense activities in Texas, including a State Defense Council, or a similar body, by whatever name he may determine to call it, and such personnel as may be necessary to carry out the provisions of this Act and to provide adequately for the protection of life and property in this State during the war emergency.

Council; membership

Sec. 2. The Council shall consist of the Governor, as Chairman, and the heads of State agencies, departments, and institutions whose legal functions relate to important phases of the war effort, and who may be designated by the Governor for membership on said Council.

Agencies of State to assist

Sec. 3. The agencies of the State Government shall give all practicable assistance in carrying out the provisions of this Act and the defense program of this State when requested to do so by the Governor or the Council.

Appropriations; Duration of law

Sec. 4. For the provisions of such supplies, equipment, telephone and telegraph facilities, traveling expenses, postage, printing, stationery, and personnel as may be required, and for such other emergency matters as may arise in connection with the prosecution of the war, and for other purposes authorized in this Act, an appropriation of Five Thousand Dollars (\$5,000) is hereby made for the period ending August 31, 1943. Provided that on and after September 1, 1943, the personnel employed and money expended shall be in accordance with and subject to and as set out in the General Appropriation Bill. Provided further that this Act shall be in force only during the time that the United States is at war with any foreign country and in no event for a longer period than two years from the date it becomes a law.

County Defense Coordinator; Municipal Defense Coordinator; defense organizations; local appropriations

Sec. 5. The Governor may appoint the County Judge of each Texas county as County Defense Coordinator for that part of the county not within the limits of incorporated cities, and may appoint the Mayor of each incorporated city as Municipal Defense Coordinator; provided, however, that if either the County Judge or the Mayor does not desire to act, he may submit to the Governor the name of a citizen of his political subdivision to be appointed to act in his place, which person shall be vested with the responsibility and authority set out in this Act. Such local defense coordinators shall carry out and administer, in their respective jurisdictions, plans for the defense of the State and for the protection of life and property, as set out in this Act, or as may be promulgated by the Governor under the authority of this Act, or under such other authority as he may have in law. The County Defense Coordinator and the Municipi-

pal Defense Coordinators may form such county-wide defense organizations as consistent with authority granted by county and municipal governments, provided that no action shall be taken in this connection that would deprive regularly constituted local officials of authority or responsibilities normally possessed. Under authority of county and municipal governments, local defense coordinators may appoint or remove such auxiliary personnel as may be necessary for the purpose of carrying out a uniform and coordinated State defense program as set out in this Act or as promulgated by the Governor under the authority of this Act. The appropriation by local governmental units of funds for the maintenance and upkeep of such local defense organizations and for other war emergency purposes shall be deemed a lawful expenditure of public moneys of cities and counties of this State; provided, that, as regards counties, the appropriation for maintenance and upkeep shall not exceed one (1) per cent of the county taxes collected by said county for the previous year, and, as regards cities and towns, appropriation for maintenance and upkeep shall not exceed one (1) per cent of the city taxes collected by said city or town for the previous year.

State may accept grants of money and grants and loans of property; custodian; handling of funds

Sec. 6. Acting in behalf of the State, the Governor may accept from public or private sources, grants of funds and grants and loans of equipment, supplies, material, and other property for the use of the State; and may appoint a State property officer as custodian of any such property, and such property officer, who may be an employee of a State agency or a private citizen, is authorized to make a bond required in the performance of his duties, the cost of making said bond to be paid from the appropriation made herein. Any moneys received for and in behalf of the State in connection with war or defense activities described herein shall be deposited in the State Treasury and otherwise handled in accordance with law, expenditures of same to be made upon requisition by the Governor to the State Comptroller, who shall draw warrants in the designated amounts upon the State Treasurer; provided, that the procedure herein established for the handling of such funds and properties shall not apply to funds, materials, and equipment allocated to any State departments or institutions for specific purposes.

Political subdivisions may accept grants of funds and grants or loans of property; other powers

Sec. 7. Political subdivisions of the State are also authorized to accept from any public or private source, grants of funds, or grants and loans of equipment, supplies, material, and other property; to hold, use, loan, expend, exchange, deal with, employ, distribute or dispose of such funds, equipment, material and other property; to negotiate with any other municipality or political subdivision for the common protection or defense of each other; to appoint local property officers, if required, to serve as custodians of such property, and to pay premiums on such bonds of local property officers as may be required.

Governor's powers; blackouts and other precautionary measures; rules and regulations

Sec. 8. The Governor is authorized and empowered to carry out, in any part of the State, or to authorize the carrying out of, precautionary measures against air raids and other forms of attack, including practice blackouts, blackouts, radio silences, dim-outs, and such other measures as will suppress activities which may assist the enemy; and such other precautionary measures as will prevent or minimize the loss of life or injury to persons or property which might be caused from such activities;

rules and regulations for such precautionary measure to have the force of law, failure to observe same constituting a violation of this law. The County Judge or the Mayor of each political subdivision of the State shall carry out the precautionary measures promulgated by the Governor and such other measures not inconsistent therewith.

Surveys and investigations; disseminating information

Sec. 9. The Governor is authorized to have made such surveys and investigations and to disseminate such information as may be deemed useful to the full utilization of the resources of the State during the war period and in the postwar period. He is authorized to accept, in behalf of the State, assistance from public or private sources in making such surveys. State departments, educational institutions, and other agencies of the State are authorized to render all practical assistance in such activity, and in making surveys and conducting research concerning the advantages and capacities of the State with respect to industrial activities, the production, processing, and the use of farm and ranch products, the solution of problems of small businesses, the growth and development of rural and urban areas, and for such other purposes as will aid the economic growth and the general welfare of the State or advance the war effort.

Liability for personal injuries or property damage

Sec. 10. (a) Neither the State nor any political subdivision of the State shall be liable for personal injury or property damage sustained by any civilian defense worker or by any person assisting a civilian defense worker, or by a member of any agency engaged in civilian defense activity, or any member of the militia of the State, or any other damage arising directly or indirectly as a result of such activity. The foregoing shall not affect the right of any person to receive benefits or compensation to which he might otherwise be entitled.

(b) The agents or representatives of the State or any political subdivision thereof, or any civilian defense worker or any person assisting a civilian defense worker, or any member of the militia of the State, or member of any agency engaged in any civilian defense activity, complying with or attempting to comply with this Act, or any order, rule, or regulation promulgated pursuant to the provisions of this Act, or pursuant to any ordinance relating to blackouts or other precautionary measures enacted by any political subdivisions of the State, shall not be liable except in cases of wilful misconduct or gross negligence, for the death of or injury to persons, or for damage to property, as a result of any such activity.

Violations of law or regulations

Sec. 11. Any person violating any provision of this Act, or any rule, order or regulation made pursuant to this Act, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding One Hundred Dollars (\$100), or shall be imprisoned in the county jail for a period not to exceed thirty (30) days, or both such fine and imprisonment.

Partial invalidity

Sec. 12. If any article, section, subsection, sentence, clause, or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the 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 of the sections, subsections, sentences,

clauses, or phrases should be declared unconstitutional. Acts 1943, 48th Leg., p. 223, ch. 142.

Approved and effective April 16, 1943.

Section 13 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6889—2. Military zones adjacent to military establishments; regulations; enforcement

Section 1. That for the purpose of this Act, any navy or coast guard base, camp, station, yard or section base shall be known as a military establishment.

Sec. 2. That the County Commissioners Courts having within the limits of said county any military establishments are hereby authorized to set up and create restricted military zones adjacent to such military establishment.

Sec. 3. That the limits of said military zones shall be set forth in the minutes of said courts; that appropriate signs shall be placed by all roads or passage-ways leading into said zones showing that such zones are restricted areas. That such zones shall not extend more than one mile from the boundary lines of any military establishment.

Sec. 4. That the Commissioners Court shall be authorized to establish special regulations for such zones as to speed of motor vehicles, parking of vehicles, and taking of pictures.

Sec. 5. That in order to properly police said zones the Commissioners Court shall be authorized to empower the civilian or military guards at such military establishments to enforce the regulations established for such military zones.

Sec. 6. That any person, association of persons, firm or corporation who shall violate any of the regulations prescribed for military zones, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred (\$100.00) Dollars or by imprisonment in the county jail for not less than ten (10) days, or more than two (2) years. Acts 1943, 48th Leg., p. 458, ch. 308.

Approved and effective May 12, 1943.

Section 7 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners Courts in counties where any navy base,

camp, station or yard, is located, to create a military zone adjacent to such camp, base, station or yard; to establish regulations for traffic, parking and other use of said zones; prescribing penalties for violation thereof, and declaring an emergency. Acts 1943, 48th Leg., p. 458, ch. 308.

TITLE 121—STOCK LAWS

CHAPTER ONE—MARKS AND BRANDS

- | | |
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| <p>Art.
6899. Records of marks and brands, except county brands, void after October 1, 1943 rerecording; inapplicable to certain counties [New].</p> <p>6899h. Fayette County, marks and brands of livestock in [New].</p> <p>6899i. Ochiltrie County, marks and brands of livestock in [New].</p> | <p>Art.
6899—1. Tattoo marks for hogs, sheep or goats; registration; fees; assignment; filing in county; punishment for certain offenses [New].</p> |
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Art. 6890. 7151, 4921 Owner's mark and brand

Tattoo marks for animals, see article 6899—1.

Art. 6899. Records of marks and brands, except county brands, void after October 1, 1943; rerecording; inapplicable to certain counties

All records of marks and brands heretofore made as provided in this Chapter, except all county brands, shall become void and of no force and effect on the 1st day of October, 1943, and every person who has cattle, hogs, sheep, or goats shall have his mark and brand recorded or re-recorded in accordance with Article 6890 and Article 6898.

The legal owner of a brand and/or mark shall have a preferential right to record such brand and/or mark for a period of two (2) years from the 1st day of October, 1943, but if such preferential right is not exercised within such two (2) years the same shall be forfeited and such brand and/or mark shall be subject to registration by any person, and the first person to record the same shall be the owner of the same.

Any brand recorded in accordance with the requirements of this Act shall be considered as the property of the person causing such record to be made and shall be subject to sale, assignment, transfer, devise and descent the same as other personal property.

Any person may record such brand and/or mark as he may desire to use provided no other person has recorded such brand and/or mark, without regard to whether or not such person has previously recorded a brand and/or mark.

This Act shall not apply to any county which shall have re-recorded all brands and marks within the past five (5) years. Added Acts 1943, 48th Leg., p. 471, ch. 315, § 1.

Approved May 13, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the Act of 1943 repealed all conflicting laws and parts of laws.

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 6899 of Rev.Civ.St.1925, as derived from Acts 1848, p. 156, P.D. 4659; G.L. vol. 3, p. 156, Acts 1913, p. 129, relating to unrecorded brands as evidence, was repealed by Acts 1929, 41st Leg., p. 55, ch. 22, § 1.

Title of Act:

An Act providing for the re-recording of marks and brands; amending Chapter 1 of Title 121, Revised Civil Statutes of Texas, 1925, adding thereto an Article numbered 6899; declaring the recording of all marks and brands heretofore made null and void; providing right to record brand for certain period; providing for forfeiture of such right if not exercised within certain period; providing for sale or transfer of brands by owner; providing for recording or re-recording of brand or mark if no other person has sought to record such brand or

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

mark regardless of whether or not the person seeking to record such brand or mark has previously recorded a brand; excepting counties from the provisions of the Act which shall have re-recorded brands

or marks within the last five (5) years; repealing all laws or parts of laws in conflict; and declaring an emergency. Acts 1943, 48th Leg., p. 471, ch. 315.

Art. 6899h. Fayette County, marks and brands of livestock in

Section 1. This Act shall apply to Fayette County. In said County each owner of any livestock mentioned in Chapter 1 of Title 121 of the Revised Civil Statutes of Texas, of 1925,¹ shall within (6) months after this Act takes effect have his mark and brand for such stock recorded in the office of the County Clerk. 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 Fayette County first recorded the same in the County, or in event it cannot be ascertained from the records who first recorded same in the County, 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 County 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 County. Immediately upon the taking effect of this Act the County Clerk shall have this Act published in some newspaper of general circulation in the County for a period of thirty (30) days, which publication shall be paid for by the County out of the General County Fund.

Sec. 2. The owner or owners of any brand or marks who have recorded such marks or brands shall re-record such brands or marks at the end of each ten-year period from the effective date of this Act. Acts 1943, 48th Leg., p. 250, ch. 151.

¹ Articles 6890-6899h.

Approved and effective April 20, 1943.

Section 3 of Act of 1943 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 Fayette County; 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 of such stock recorded at the office of the County Clerk; providing that such owners shall so record such marks and brands whether here-

before 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 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 Fayette County; further providing that the County Clerk of said County shall publish this Act in some newspaper in general circulation in Fayette County for a period of thirty (30) days; providing for re-recording brands and marks at the end of each ten-year period; and declaring an emergency. Acts 1943, 48th Leg., p. 250, ch. 151.

Art. 6899i. Ochiltree County, marks and brands of livestock in

This Act shall apply to Ochiltree County only. In said county, 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 in the office of the County Clerk of said county. Such owner 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 own name, who, according to the present records of said county, first recorded the same in the county, or in the event it cannot be ascertained from the records who first recorded same in the county, then the person who has been using

such mark and brand the longest shall have 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 county 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 and considered in recording marks and brands in said county. Immediately upon the taking effect of this Act, the County Clerk of said county shall have this Act published in some newspaper of general circulation in the county for a period of thirty (30) days, which publication shall be paid for by the county, out of the General County Fund. Acts 1943, 48th Leg., p. 561, ch. 332, § 1.

Approved and effective May 14, 1943.

Section 1a of the Act of 1943 read as follows: "Immediately after the passage of this Act, the Commissioners Court of Ochiltree County shall order an election to permit the freeholders of Ochiltree County to determine whether said county shall adopt the provisions of Section 1 of this Act. The election shall be held in the manner as provided in Chapter 6, Title 121, Revised Civil Statutes of Texas of 1925, and if a majority of the freeholders of Ochiltree County vote for the adoption of the provisions of Section 1 of this Act, it shall become effective as heretofore provided. If a majority of the voters do not vote for the adoption of the provisions of this Act, this Act shall become void and inoperative."

Title of Act:

An Act relating to marks and brands in Ochiltree County only; requiring that in said county 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 livestock recorded at the office of the County Clerk; 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 shall no longer have any force and effect, and that after the expiration of six (6) months, only the records made after this Act shall be effective or considered the recorded marks and brands in said county; and further providing that the County Clerk of said county shall publish this Act in some newspaper in general circulation in the county for a period of thirty (30) days; providing an election for the adoption of the provisions of this Act shall be ordered by the Commissioners Court of Ochiltree County immediately after the passage of this Act, and the manner in which same shall be held, and declaring this Act void if a majority of the voters do not vote for the adoption of said provisions; and declaring an emergency. Acts 1943, 48th Leg., p. 561, ch. 332.

Art. 6899—1. Tattoo marks for hogs, sheep or goats; registration; fees; assignment; filing in county; punishment for certain offenses

Section 1. Any person, firm, corporation, or association owning hogs, sheep, or goats in this State, shall have the right to register for exclusive use a distinctive tattoo mark, not theretofore recorded, and to retain the exclusive use thereof, in accordance with the procedures and conditions hereinafter set forth in this Act. Nothing in this Act shall operate to invalidate or interfere with the use by the owner thereof of any tattoo mark or marks already recorded in the various county records of marks and brands on March 1, 1943.

Sec. 2. The Act shall be administered by the Department of Public Safety, and the Director of said Department is hereby charged with such administration in all particulars.

Sec. 3. Application for such registration as hereinabove described shall be made to the Director of the Department of Public Safety, shall be signed by the applicant or his agent, and shall show the applicant's place of residence, his citizenship, the location of the livestock which he owns, the kind or kinds of such livestock, and shall name the place or part of the animal upon which the tattoo mark is to be placed.

To each application for a registration there shall be attached a drawing of the tattoo mark for which registration is sought, over the signature of the applicant or of his agent; provided that such drawing shall

comply with the requirements of the Department of Public Safety, and that as many copies thereof shall be furnished as the Director may require.

Sec. 4. It shall be the duty of the Director to examine or cause to be examined each application for the registration of any tattoo mark, and upon satisfactory evidence that such registration should be made, to issue forthwith a certificate of registration.

Sec. 5. Any person, firm, corporation, or association which believes himself or itself about to be damaged by the granting of a certificate of registration for the exclusive use of a tattoo mark, applied for under the provisions of this Act, may within twenty (20) days of the filing of such application file a written notice of protest, stating the grounds therefor, which notice shall be sworn to and filed with the Department of Public Safety. It shall then be the duty of the Director of the Department of Public Safety to take such steps and hold such hearings as he may deem necessary to determine whether the application in question shall be granted or denied, and the decision of the Director shall be final, provided that he shall give his reasons therefor, and that in case of the abuse of this discretion by the Director, the contestant may have recourse to the District Courts of the County where the contestant resides.

Sec. 6. The following fees shall prevail in the administration of this Act:

Each original application filed shall be accompanied by a fee of Five (\$5.00) Dollars.

Each notice of assignment shall be accompanied by a fee of One (\$1.00) Dollar.

Each notice of opposition to registration filed shall be accompanied by a fee of Ten (\$10.00) Dollars.

Sec. 7. The fees provided hereinabove shall be collected by the Director of the Department of Public Safety and remitted by him to the Comptroller, who shall cause such funds to be deposited by the State Treasurer in a special fund to be known as the Livestock Tattoo Fund; provided that said fund shall be used exclusively in the administration of this Act; provided that upon certification of the Director of the Department of Public Safety the Comptroller shall draw his warrant upon the State Treasurer in the General Revenue Fund.

Sec. 8. The certificate of registration for the exclusive registration and use of any tattoo mark shall be assignable in connection with the good will of the ranch, farm, or other business in which the same is used, provided that such assignment shall not be valid unless and until notice of same has been filed in writing, sworn to by the assignor, with the Department of Public Safety; but such certificate of registration shall not be otherwise transferable.

Sec. 9. It shall be the duty of the Director to forward to the County Clerk of the applicant's residence a certified copy of said registration to be filed in the County Clerk's office of said County in a regular book for that purpose, the filing fees to be paid by the person so registering said tattoo mark and said filing fee shall not exceed the sum of Twenty-five (25¢) Cents.

Sec. 10. The registration of a tattoo mark under the provisions of this Act shall create an exclusive right to use the same in this State, shall be prima facie evidence of ownership of the livestock so tattooed, in any criminal or civil actions in the Courts of this State; provided that any person who shall, without the consent of the owner, reproduce, counterfeit, copy, add to, take from, imitate, destroy or remove any such tattoo mark affixed to any livestock as heretofore enumerated herein, or who

shall buy, sell, or barter for himself, or for any other person, or transport over the highways of this State, any livestock upon which any registered tattoo mark has been placed or fixed, without the consent of the owner of such livestock, or who shall aid the commission of any of the above described acts, shall be deemed guilty of a felony, and upon conviction thereof shall be confined in the State Penitentiary for a period of not less than two (2) nor more than twelve (12) years. Acts 1943, 48th Leg., p. 52, ch. 48.

Approved and effective March 6, 1943.

Section 11 of the Act of 1943 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 for exclusive use by owners of livestock in this State of tattoo marks; providing for the administration of this Act through the Department of Public Safety; describing the procedure for the registration; providing for the filing of protests; pro-

viding for registration fees and the collection thereof; providing for the allocation of such fees to the expense of administering this Act; describing the method of granting or issuing of a certificate of registration for the exclusive use of such registered tattoo marks; providing for the assignment thereof; providing for copy of registration in the County of registrant's residence; fixing violations of this Act and providing penalties therefor; and declaring an emergency. Acts 1943, 48th Leg., p. 52, ch. 48.

CHAPTER SIX—STOCK RUNNING AT LARGE

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, Frio, Gaines, Galveston, Goliad, Gray, Gregg, Guadalupe, Garza, Glasscock, Gillespie, Gonzales, Grimes, Grayson, Hale, Hamilton, Hansford, Narris, 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, Rockwall, Runnels, Rusk, San Patricio, San Saba, San Jacinto, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Stephens, Sterling, Starr, Stonewall, 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 1943, 48th Leg., p. 393, ch. 265, § 1.

Amendment by Acts 1943, 48th Leg., p. 115, ch. 85, § 1, see article 6954, post.

Approved and effective May 7, 1943.

that the Act should take effect from and

Section 2 of the amendatory Act of 1943 declared an emergency and provided

after its passage.

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, Dimmitt, Donley, Duval, Eastland, Ector, Edwards, Ellis, Erath, El Paso, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Fisher, Freestone, Frio, 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, Rockwall, Runnels, Rusk, San Augustine, 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, the 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 1943, 48th Leg., p. 115, ch. 85, § 1.

Amendment by Acts 1943, 48th Leg., p. 393, ch. 265, § 1, see article 6954, ante.

Approved and effective March 29, 1943.

Section 2 of the amendatory Act of 1943 repealed all inconsistent laws or parts of laws to the extent of such inconsistencies.

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

CHAPTER SEVEN—PROTECTION OF STOCK RAISERS

Art. 6972. 7256 to 7259 Inspector

Additional law enforcement officers in counties having 5000 or more cattle, sheep or goats, see article 1581b.

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, Cochran, Coke, Collin, Collingsworth, Colorado, Comal, Comanche, Cooke, Coryell, Cottle, Crockett, Crosby, Culbertson, Dallam, Dallas, Delta,¹ 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, Zapata, and Zavala are hereby exempted from the provisions of this Chapter, and from all laws regulating the inspection of hides and animals. As amended Acts 1943, 48th Leg., p. 84, ch. 66, § 1; Acts 1943, 48th Leg., p. 115, ch. 84, § 1.

¹ "Deaf Smith" county omitted on the authority of Acts 1943, 48th Leg., p. 115, ch. 84, § 1, effective March 29, 1943, which read as follows: "Article 7005 and Section 2 of Article 7008, under Chapter 7, Title 121, of the Revised Civil Statutes of the State of Texas of the Year 1925 Codification, as amended, are each and both hereby amended by striking from each of said Articles the words 'Deaf Smith' ". On question of validity of amendment in this form, see Const. art. 3, § 36, and the annotations thereunder.

Acts 1943, 48th Leg., p. 364, ch. 243, § 1, approved and effective May 6, 1943, read as follows: "Potter County is exempted hereby from the provisions of Chapter 7, Title 121, Revised Civil Statutes of Texas (1925) as well as all amendments thereto, and is further exempted from all laws regulating the inspection of hides and ani-

mals, and particularly Articles 1471 to 1487, both inclusive, of the Penal Code of Texas (1925)."

Acts 1943, ch. 66, approved and effective March 17, 1943.

Acts 1943, ch. 84, approved and effective March 29, 1943.

Section 3 of the amendatory Act of 1943, ch. 66, repealed all conflicting laws and parts of laws.

Acts 1943, ch. 66, § 4, and Acts 1943, ch. 84, § 2, declared an emergency and provided that the Acts should take effect from and after their passage.

Art. 7008. Fees of inspectors; Act inapplicable to certain counties

Each inspector of hides and animals, or deputy inspector, provided for in this Chapter shall be entitled to receive Ten (10) Cents for each hide or animal personally inspected by him, but if more than fifty (50) hides or animals are inspected in the same lot, then Ten (10) Cents each for the first fifty (50), and Three (3) Cents each for all above that number, provided that the Commissioners Court of any County not exempted from the provisions of this Chapter may, upon hearing showing the necessity therefor after due notice of the time and place of such hearing having been published once each week for three (3) consecutive weeks in a newspaper of general circulation in such County, by order entered upon the Minutes of such Commissioners Court, authorize said inspector, or deputy inspectors, of said County to charge not to exceed Twenty-five (25) Cents for each hide or animal inspected except in cases where more than fifty (50) hides or animals are inspected in the same lot, in which event no more than Twenty-five (25) Cents each for the first fifty (50) hides or animals inspected and not to exceed Ten (10) Cents each for all hides or animals above that number shall be authorized. As amended Acts 1943, 48th Leg., p. 84, ch. 66, § 2.

Sec. 2. Provided this Act does not apply to the following Counties in Texas: Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bastrop, Bandera, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazos, Brewster, Briscoe, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Colorado, Collin, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson,¹ Delta, Denton, DeWitt, Dickens, Dimmit, Donley, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Freestone, Gaines, Galveston, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Marion, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Montgomery, Moore, Morris, Motley, McCulloch, McLennan, Nacogdoches, Navarro, Newton, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Wharton, Wheeler, Wichita, Wilbarger, Wilson, Williamson, Winkler, Wise, Wood, Yoakum, Young, and Zavala. As amended Acts 1943, 48th Leg., p. 115, ch. 84, § 1.

¹ "Deaf Smith" county omitted on the authority of Acts 1943, 48th Leg., p. 115, ch. 84, § 1, effective March 29, 1943, which read as follows: "Article 7005 and Section 2 of Article

7008, under Chapter 7, Title 121, of the Revised Civil Statutes of the State of Texas of the year 1925 Codification, as amended, are each and both hereby amended by striking from each of said Articles the words 'Deaf Smith' ". On question of validity of amendment in this form, see Const. art. 3, § 36, and the annotations thereunder.

Acts 1943, ch. 66, approved and effective March 17, 1943.

Acts 1943, ch. 84, approved and effective March 29, 1943.

Section 3 of the amendatory Act of 1943, ch. 66, repealed all conflicting laws and parts of laws.

Acts 1943, ch. 66, § 4, and Acts 1943, ch. 84, § 2, declared an emergency and provided that the Acts should take effect from and after their passage.

TITLE 122—TAXATION

CHAPTER ONE—LEVY OF TAXES AND OCCUPATION TAXES

Art.

7045a. County rate; members of Commissioners Court or County Judge in military service; duration [New].

Art. 7043. 7351 Ascertaining tax rate; formula

Within five (5) days after the Comptroller has received such certified statements from every Assessor within this State, said Board shall meet for the purpose of calculating the ad valorem rate of taxes to be collected for the State and public free school purposes. In calculating said rates the Board shall calculate the same by the following rules and upon the following basis: they shall find, by adding together all the property subject to taxation in all counties as shown by the certified statements returned by the Assessors, the total valuation of all property within this State subject to ad valorem taxes. They shall find, by adding together the sums appropriated by the Legislature, which will or which may become due by the State, during the following fiscal year, the amount fixed by the Board of Education for public free school purposes, as the State apportionment, the total sum of which will or which may become due by the State, during the following fiscal year. They shall find, by adding all sums paid into the State Treasury as delinquent ad valorem taxes and interest and penalties thereon during the first half of the current calendar year and latter half of the preceding calendar year and all sums which may be expected to be paid as taxes for State purposes from all sources other than ad valorem taxes, the total sum expected to be collected from all said sources. They shall find, by subtracting from the total sum which will or which may become due by the State during the succeeding fiscal year, the total sum which may be expected to be paid as taxes for State purposes from all sources other than current ad valorem taxes, the total sum for State purposes which must be collected by current ad valorem taxes. They shall add to such remainder twenty (20) per cent of said remainder. They shall add the total sum for State purposes which must be collected by ad valorem taxes added to twenty (20) per cent of such total sum by the quotient of the total valuation of all property within this State divided by one hundred (100). The quotient shall be the number of cents on the one hundred dollars valuation to be collected for the current year for State purposes; provided that said quotient shall not be run to more than three decimals. The rate for State purposes shall never exceed the rate fixed by law on the one hundred dollars valuation of property. In calculating the rate to be collected for public free school purposes, said Board shall take into consideration the number of children in the State within the scholastic age, to be determined from the most recent official school census; in arriving at the rate that shall be fixed for public free school purposes, said Board shall set the rate so that it will yield the amount per student that has been previously fixed by the Board of Education, provided the rate so fixed for any year shall not exceed the rate fixed by law. Provided, that no rate for school purposes shall be set by said Board in excess of a rate required to produce sufficient funds which when added to other available school funds would produce a total available school fund for an apportionment in excess of the amount derived by using the formula prescribed in Article 2665 of the Revised Civil Statutes of Texas, as amended.

"Provided that no rate for school purposes shall be set by said Board in excess of a rate required to produce sufficient funds when added to other available school funds would produce a total available school fund for an apportionment in excess of Twenty-five Dollars (\$25), it being the intention of the Legislature that the State Board of Education shall have the authority to fix the apportionment at not exceeding Twenty-five Dollars (\$25), and when so fixed, the State Tax Board shall fix a rate for school purposes, the maximum rate authorized by the Constitution if necessary, to produce revenue when added to other available school revenue, shall be a sufficient amount to meet the apportionment, which shall not be in excess of Twenty-five Dollars (\$25), and it is specifically provided that the rate shall never be greater than necessary to supplement other available school funds to guarantee an apportionment of not exceeding Twenty-five Dollars (\$25) per year. As amended Acts 1943, 48th Leg., p. 260, ch. 160, § 1.

Approved and effective April 22, 1943.
Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

Art. 7045. 7353 County rate

Suspension until May 1, 1945.

Acts 1943, 48th Leg., p. 381, ch. 256, § 1 suspends the provisions of this article un-

til May 1, 1945. See article 7045a as to provisions in effect until then.

Art. 7045a. County rate; members of Commissioners Court or County Judge in military service; duration

The Commissioners Court of the several counties, all the members thereof being present at either a regular or special session, may at any time after the Tax Assessors of their respective counties have forwarded to the Comptroller the said certificate, and prior to the time when the Tax Collector of such county shall have begun to make out his receipts, calculate the rate and adjust the taxes levied in their respective counties for general purposes to the taxable value shown by the assessment rolls; provided, however, that if any member or members of the Commissioners Court or the County Judge is in active military or naval service, county taxes may be levied at any regular term of the Commissioners Court when a quorum of its members are present. This Section shall be effective until the date set out in Section 1 of this bill.¹ Acts 1943, 48th Leg., p. 381, ch. 256, § 3.

¹ May 1, 1945. See note under article 7045.

Approved May 8, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 4 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 7047. 7355, 5049 Occupation taxes

6. Auctioneers. From every auctioneer, there shall be collected an annual tax of Ten Dollars (\$10). As amended Acts 1943, 48th Leg., p. 654, ch. 372, § 1.

Approved and effective May 25, 1943.

7. Brokers and Factors. From every person, acting for himself or on behalf of another, engaged in the business or occupation of a Broker or Factor, whether he is principally engaged in such business or not, there shall be collected Ten Dollars (\$10) per year. A 'broker' or 'factor,' for the purpose of this subsection, is every person who, for another and for a fee, commission or other valuable consideration, rents, buys, sells, or transfers, for actual spot or future delivery, or negotiates purchases or sales or transfers of stocks, bonds, bills of exchange, negotiable

paper, promissory notes, bank notes, exchange, bullion, coin, money, real estate, lumber, coal, cotton, grain, horses, cattle, hogs, sheep, produce and merchandise of any kind; whether or not he receives and delivers possession thereof; provided that this subsection shall not apply to a salesman who is employed on a salary or commission basis by not more than one retailer, wholesaler, jobber, or manufacturer, nor shall this subsection apply to or be construed to include persons selling property only as receivers, trustees in bankruptcy, executors, administrators, or persons selling under the order of any Court, or any person who is included within the definition of any other occupation and is paying or subject to the payment of a tax under any other subsection of this Act; however, this exemption shall not apply to any individual engaged in more than one occupation as defined by the other subsection of this Act. As amended Acts 1943, 48th Leg., p. 654, ch. 372, § 2.

Approved and effective May 25, 1943.

8. Repealed Acts 1943, 48th Leg., p. 654, ch. 372, § 3. Eff. May 25, 1943.

10 (a) Insurance Adjusters. From every person engaged in the occupation of adjusting insurance losses in this State, there shall be collected an annual tax of Ten Dollars (\$10).

For the purpose of this subsection, a person shall be deemed to be engaged in the occupation of adjusting insurance losses when he investigates, or ascertains the liability or amount of damage, or negotiates the adjustment of insurance claims or losses, or reports thereon; whether employed by an insurance company, or companies, or the insured, or is a member of a firm, association of persons, or an employee, or representative, or officer of such firm, association, or of a corporation, when such firm, association, or corporation is engaged in adjusting insurance losses. Provided that this tax shall not apply to any local, recording, soliciting or special agents of any insurance company, nor to any person regularly employed on a salary by any insurance company, who may adjust insurance losses only for a company represented by him, such person not charging or being paid for his services as an insurance adjuster on a fee basis.

(b) General Agents. From every person acting as a general agent of any insurance company that may transact any insurance business in this State, there shall be collected an annual tax of Twenty-five Dollars (\$25).

For the purpose of this subsection, a "general agent" shall be a person, firm, association or corporation, who may exercise a general supervision or control over the business of one or more insurance companies in this State and who maintains a supervisory office or offices, with the authority to appoint local agents or special agents; and who, in the case of fire, marine and casualty insurance companies, receives, records, inspects, underwrites and files the daily reports from local agents of the business done by such local agents. Separate taxes shall not be charged for individual members of such firms, associations or corporations, but a separate tax shall be levied for each separate establishment maintained by such general agents. Provided that this tax shall not apply to any local or special agents of fire, marine or casualty insurance companies, or any local or soliciting agents, or district, division, or branch managers, of life, accident, health, or industrial insurance companies. As amended Acts 1943, 48th Leg., p. 654, ch. 372, § 3.

Approved and effective May 25, 1943.

11. Repealed Acts 1943, 48th Leg., p. 654, ch. 372, § 5. Effective May 25, 1943.

12. Repealed Acts 1943, 48th Leg., p. 654, ch. 372, § 6. Effective May 25, 1943.

20. Repealed Acts 1943, 48th Leg., p. 654, ch. 372, § 7. Effective May 25, 1943.

25. (a) Menageries, Museums. From every menagerie, waxworks, side show, or exhibition connected with or exhibiting or showing in connection with a circus where a separate fee for admission is demanded or received Ten Dollars (\$10) for every day in which fees for admission are received; provided, that from any museum, menagerie, or zoological exhibition or combination thereof operated and maintained in any city or town and open for admission all day continuously, in which a charge for admission is demanded or received, an annual tax of Fifty Dollars (\$50).

(b) Carnivals. From every carnival showing or exhibiting in this State, there shall be collected in advance a quarterly tax of Fifty Dollars (\$50); provided that from every carnival showing or exhibiting in only one county in this State in any calendar year there shall be collected in advance the quarterly tax of Fifty Dollars (\$50) until One Hundred Dollars (\$100) has been paid, whereupon no additional tax shall be collected during the same calendar year so long as such carnival has shown in only one county during such calendar year; it being the purpose hereof to require carnivals showing in only one county in any calendar year to pay not more than One Hundred Dollars (\$100) per year. As amended Acts 1943, 48th Leg., p. 654, ch. 372, § 8.

Approved and effective May 25, 1943.

31. Rodeos. From every rodeo exhibition wherein bronco busting, rough riding, equestrian, acrobatic feats, and roping contests are performed or exhibited in which performers receive wages, salaries, or other remuneration other than prizes awarded to winning contestants, there shall be collected by the Comptroller a tax of Ten Dollars (\$10) a day or part thereof on which such rodeo is held or exhibited. As amended Acts 1943, 48th Leg., p. 654, ch. 372, § 9.

Approved and effective May 25, 1943.

35. Shooting Gallery. From every person, firm, association of persons, or corporation, owning or operating a shooting gallery at which a fee is paid or demanded, there shall be collected an annual tax of Fifteen Dollars (\$15). As amended Acts 1943, 48th Leg., p. 654, ch. 372, § 10.

Approved and effective May 25, 1943.

36. Nine and Ten Pin Alleys. From every person, firm, association of persons, or corporation, owning or operating for profit every nine or ten pin or other alley, by whatever name called, constructed or operated upon the principle of a bowling alley, upon which pins, pegs, balls, rings, hoops or other devices are used, there shall be collected an annual tax of Ten Dollars (\$10) for each track or alley, provided, however, that said tax shall not exceed One Hundred Dollars (\$100) in any such year. As amended Acts 1943, 48th Leg., p. 654, ch. 372, § 11.

Approved and effective May 25, 1943.

40. Repealed, Acts 1943, 48th Leg., p. 86, ch. 67, § 22. Effective March 17, 1943.

Sections 13 to 16 of the amendatory Act of 1943, read as follows:

"Sec. 13. All occupation taxes, penalties, and interest accruing to the State of Texas

by virtue of any repealed or amended Act, section or subsection as set out in this Act, before the effective date hereof, shall be and remain valid and binding obligations to this

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

State, and all taxes, fines, penalties, and interest accruing under the provisions of prior or existing occupation or other tax laws, and all such taxes, penalties, and interest now or hereafter becoming delinquent to this State are hereby expressly preserved and declared to be legal and valid obligations to the State of Texas.

"Sec. 14. The passage of this Act shall not affect offenses committed, or prosecutions begun, under any pre-existing 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.

"Sec. 15. Any provision in this Act, or any portion of this Act, to the contrary notwithstanding shall not levy or be con-

strued as levying any tax on any new occupation or occupations or be construed as levying any increased and/or additional tax of any kind or character whatsoever upon any person, firm, partnership, association and/or corporation, provided, however, that existing taxes may be reenacted at not more than the existing rate of taxation immediately prior to the effective date of this Act.

"Sec. 16. If any part or portion of this Act shall be declared to be unconstitutional, the remainder thereof shall nevertheless remain in full force and effect."

Section 17 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 7047c—3. Cigarette tax inapplicable to sales to or by United States military or naval posts, camps or exchanges; civilians, purchases by; limitation on sales without tax

Section 1. Post, Camp, or Unit Exchanges established and operated within the State of Texas, by the United States Military, Naval or Marine forces and not otherwise, on Military, Naval or Marine Posts, Camps, or Reservations, including any locality within this state where a cantonment camp is located and erected, where officers, soldiers, sailors, nurses, or marines of the United States Army, Navy or Marine Corps are being trained, are hereby declared to be, and are recognized only for such tax purposes as are hereinafter set out, instrumentalities and agencies of the United States Government.

Sec. 2. It is further provided that the provisions of this law shall extend to and apply to any authorized branch of a Post, Camp or Unit Exchange which may be established for the exclusive benefit of the officers, soldiers, sailors, nurses or marines in the Army, Navy or Marine Corps of the United States at any time that said officers, soldiers, sailors, nurses or marines shall be on authorized military maneuvers. It being the express intent of the Legislature by this Act to allow soldiers, sailors, nurses and marines in the Army, Navy and Marine Corps of the United States, and no others, to purchase cigarettes for their exclusive use and not otherwise, from said Camp, Unit, or Post Exchange, and to consume or smoke the same without paying the tax imposed upon cigarettes used or otherwise disposed of in this state by Section 2, Chapter 241, Acts of the Regular Session of the 44th Legislature. It is also expressly provided that this law shall not be construed as authorizing any civilian employee of the United States Government or any person or persons whomsoever, other than officers, soldiers, sailors, nurses and marines of the Army, Navy or Marine Corps to purchase cigarettes free of the State Tax from a Camp, Unit, or Post Exchange, or on authorized military maneuvers or to use, consume or smoke said cigarettes without paying the State Tax as provided by the said law cited hereinabove.

All persons, except officers, soldiers, sailors, nurses and marines shall be subject to the tax imposed upon the use of cigarettes by the said Section 2, Chapter 241, Acts of the Regular Session of the 44th Legislature, and no officer, soldier, sailor, nurse or marine or person shall sell or furnish cigarettes upon which the State Tax has not been paid to any civilian employee of the United States Government or to any person or persons other than officers, soldiers, sailors, nurses and marines serving as such in the Army, Navy or Marine Corps of the United States. Provided further, that no civilian employee of the United States Government or other

person whomsoever, except such officers, soldiers, sailors, nurses and marines shall purchase or receive cigarettes without the State Tax Stamp being affixed to the package to evidence the payment of the tax levied by law from any such Post, Camp or Unit Exchange, or shall use or consume cigarettes upon which said tax has not been paid to the state and the possession by any said civilian employee of the United States Government or person other than said officers, soldiers, sailors, nurses and marines of cigarettes without the State Tax Stamp affixed to the package at any place in the State of Texas shall be a violation of this Act and shall be prima facie evidence that such cigarettes are possessed for the purpose of sale or use without payment of the tax levied by law.

Sec. 3. It is further provided that no officers, soldiers, sailors, nurses or marines, in the Army, Navy, or Marine Corps of the United States shall remove from the confines of any military or naval post or reservation in this state, cigarettes without the State Tax Stamp affixed to the package in quantities of more than forty (40) cigarettes or shall resell, distribute or furnish cigarettes without the State Tax Stamp affixed to the package to any person, persons, firm or corporation not authorized to use or consume the same without the State Tax having been paid thereon. Any person, firm, or corporation who knowingly removes from such reservations any cigarettes or sells, furnishes, purchases or receives any cigarettes in violation of this provision shall be subject to the penalties provided in this law. The possession of more than forty (40) cigarettes by any said officers, soldiers, sailors, nurses or marines without the State Tax Stamp affixed to the package at any place in Texas other than a military or naval post or reservation shall be a violation of this Act and shall be prima facie evidence that such cigarettes are possessed for the purpose of a sale in Texas without the State Tax Stamps affixed.

Sec. 4. It is further recognized, declared and provided that the provision of Section 2, Chapter 241, Acts of the Regular Session of the 44th Legislature, as amended by Senate Bill No. 247, Chapter 310, Acts of the Regular Session of the 45th Legislature, relating to "first sale" of cigarettes does not apply to sales by such Post, Camp or Unit Exchanges to officers, soldiers, sailors, nurses and marines of the Army, Navy and Marine Corps under the conditions specified in the preceding sections of this law or to sales in accordance with such specified conditions and for such resale purposes to such Post, Camp or Unit Exchanges by a licensed cigarette distributor in Texas.

Sec. 5. Any person, firm, or corporation violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars. Each violation of any of the provisions of this Act shall be considered a separate offense.

Sec. 6. If any part or portion of this Act shall be declared to be unconstitutional, the remainder thereof shall nevertheless remain in full force and effect. As amended Acts 1943, 48th Leg., p. 407, ch. 275, § 1.

Approved and effective May 8, 1943. an emergency and provided that the Act should take effect from and after its passage.
Section 7 of the Act of 1941 and section 2 of the amendatory Act of 1943 declared

Art. 7047g. Repealed. Acts 1943, 48th Leg., p. 309, ch. 200, § 1. Eff. 90 days after May 11, 1943, date of adjournment

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art. 7065b—5. Sales to distributors without payment of tax for further refining, exporting and certain other purposes

(a) The Comptroller may authorize and permit any person producing natural gasoline, casing-head gasoline, drip gasoline, or any derivative or condensate of crude oil or natural gas, in their natural and unrefined state, or any person operating a pipe line as a common carrier, or any licensed distributor of motor fuel in this State to make a sale, resale, or distribution of such products or of motor fuel, without collecting the tax levied herein, to any distributor holding a valid permit under the terms of this Article, when such distributor purchasing the same has, in the opinion of the Comptroller, a satisfactory and sufficient bond, and when the product is sold and purchased for the purpose of exportation, further refining, further processing, further treating, blending or compounding with other products to produce motor fuel, or for resale for some one or more of such purposes, and not otherwise. If the distributor purchasing said products without paying said tax shall thereafter sell, or distribute said products, either alone or when compounded with other products, in this State, for any purpose other than that hereinabove provided, he shall be required to collect and pay over to the State of Texas at the time and in the manner herein provided, the tax at the rate of four (4) cents per gallon upon each gallon or fractional part thereof sold or distributed. Said distributor shall also be liable for and shall be required to pay to the State of Texas said tax at the aforesaid rate upon each gallon of such motor fuel used by said distributor. Failure or refusal to collect and pay over to the State of Texas the tax on motor fuel so sold or distributed by said distributor, or to pay the tax on motor fuel used by said distributor, shall subject him to all the liabilities, penalties, forfeitures, interest and costs provided in this Article.

(b) Provided further, that any person whether producer, pipe-line operator or licensed distributor, who shall make any sale or distribution as provided herein, shall be required to make and keep all the records and manifests involving such sales or distributions as is required of a distributor in Section 9(b) of this Article. Said person shall also be required to make and file with the Comptroller the return or report required by Section 3 of this Article, showing all the information contained therein. The manifest required to be issued upon such sale or distribution shall bear the notation that said product is being sold or distributed for further refining, further processing, treating, blending, compounding, or for exportation, whichever the case may be. Provided further, that every producer and every pipe-line operator shall qualify as a distributor and obtain a distributor's permit before selling the commodities named herein to any person other than a licensed and qualified distributor. All such sales and distributions shall be made in accordance with rules and regulations promulgated by the Comptroller. As amended Acts 1943, 48th Leg., p. 441, ch. 298, § 1.

Approved May 10, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Sections 5 and 6 of the amendatory Act of 1943 read as follows:

"Sec. 5. All laws or parts of laws that conflict herewith are, in so far as such conflict exists, hereby repealed and this

Act shall prevail over any such conflicting law or provision of law. Provided, however, that all taxes, penalties and interest accruing to the State of Texas before the effective date of this Act by virtue of the amended or re-enacted provisions of Article XVII, Chapter 184, Acts of the Regular Session of the Forty-seventh

Legislature, and all taxes accruing under the provisions of prior or existing gasoline or motor fuel tax laws, shall be and remain valid and binding obligations due the State of Texas, 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, and the liens and other obligations created and bonds executed to secure their payment under the terms of said amended and re-enacted Act are hereby declared to be and shall remain in full force and effect. It is further provided, that no offense committed and no fine, forfeiture, or penalty incurred under such above

amended and re-enacted Act before the effective date of this Act, shall be affected by the amendment herein of any such laws, but the punishment of such offense and recovery of such fines and forfeitures shall take place as if the law amended and re-enacted had remained in force.

"Sec. 6. If any section, paragraph, sentence, clause, phrase, or word of this Act is declared to be invalid, it shall not affect any of the remaining provisions of said Act, and the Legislature hereby declares it would have passed said remaining provisions without the invalid provisions."

Section 7 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 7065b—13. "Refund dealer" defined; refunds; applications; records; license; invoice of exemption; affidavit; fire or other accident; sales to United States government; Highway Motor Fuel Tax Fund

The term "refund dealer" wherever used in this Article shall mean any dealer, distributor, or other person who engages in the selling of motor fuel or who appropriates for his own use and consumption motor fuel on which a refund of the tax paid on such motor fuel is authorized by this Article.

(a) Any person who purchases motor fuel in the State of Texas, and any distributor who appropriates motor fuel for use when such motor fuel purchased by such person or used by such distributor for operating or propelling any stationary gas engine or tractor used for agricultural purposes, motor boats, aircraft, or for any purpose other than use in a motor vehicle operated or intended to be operated in whole or in part upon any of the public highways, roads, or streets of the State of Texas, on which motor fuel tax has been paid, either directly or indirectly, shall be refunded the amount of such taxes so paid by the distributor, exclusive of the one (1) per cent deduction allowed distributors upon the first sale, distribution or use of said motor fuel, for collecting and remitting the tax and for evaporation and other losses in the manner and subject to the limitations and conditions described herein. Provided, however, that no greater amount shall be refunded than has been paid into the Treasury on any motor fuel. The tax actually paid by any distributor or person shall be refunded as provided herein on motor fuel not subject to the tax.

(b) Any person or distributor desiring to appropriate or sell motor fuel on which a refund of the tax is authorized by this Article, shall, before making such appropriation or sale, make application to the Comptroller of Public Accounts, upon forms to be prescribed by the Comptroller, and containing such information as the Comptroller may require, for a refund dealer's license to sell such motor fuel; and it shall be unlawful for any person to sell or appropriate any motor fuel upon which a refund of the tax will be made, or is intended to be made, without first having obtained from the Comptroller of the State of Texas such license to sell or appropriate such motor fuel.

A separate application shall be made to the Comptroller by such person or distributor for each place of business from which refund motor fuel is to be sold or distributed by such person or distributor, and the Comptroller shall issue a separate license for each such place of business. The Comptroller shall examine each application for license received by

him, and, if found in due form, and if within the discretion of the Comptroller, the applicant is entitled to such license, the same shall be issued. When such application is made to the Comptroller, the applicant for license shall be required to file oath with the Comptroller that he will faithfully perform and comply with the Statute making provision for the sale, distribution, and use of motor fuel subject to a refund of the motor fuel taxes. Each license issued hereunder shall remain in full force and effect until the first day of March following its date of issue, and annually on the first day of March each refund dealer, or other person, desiring to sell or appropriate motor fuel upon which a refund of the tax is authorized must obtain from the Comptroller a license, or a renewal of his existing license, to sell such motor fuel as herein provided. Any refund dealer's license issued hereunder is not transferable unless such transfer is authorized by the Comptroller. Any person who sells motor fuel upon which a refund of the tax may be authorized, or is claimed, under the provisions of this Article, without having obtained a refund dealer's license, as provided for under this Article, shall be guilty of a misdemeanor, and upon conviction, shall be liable in any sum not to exceed One Thousand Dollars (\$1,000), or by a jail sentence not to exceed six (6) months in jail, or by both such fine and jail sentence.

Every refund dealer shall be required to maintain the records required of a dealer in Section 10 of this Article. Said refund dealer shall also be required to affix his license number to every invoice of exemption he may issue under the provisions of this Article.

The Comptroller shall prescribe the form of license to be used under this Article and shall have authority, and it shall be his duty, to revoke and cancel any license issued hereunder when the refund dealer violates any Section of this Article. And, in the event the Comptroller does revoke a license, then the said license or renewal certificate and all books containing invoices of exemption held by such refund dealer shall be accounted for and surrendered to the Comptroller.

No refund of the tax shall be granted on any motor fuel to any person, claimant, firm, corporation, or otherwise, unless such motor fuel has been purchased from or used by a licensed refund dealer as provided for in this Article; and the Comptroller is hereby prohibited from issuing a warrant in payment of any refund of the tax on any motor fuel not purchased from a licensed refund dealer except refund on motor fuel exported, lost by accident or purchased by the United States Government.

(c) An invoice of exemption shall be demanded by the purchaser or recipient of motor fuel used for refund purposes, and upon each delivery by a refund dealer, or upon each appropriation for use of motor fuel upon which a refund of the tax may be claimed, an invoice of exemption shall be issued showing the date of such delivery, or of such appropriation for use, which invoice of exemption shall state: the current number of the license of the refund dealer; the number of gallons of motor fuel thus delivered or appropriated; the purpose for which such motor fuel will be used, or is intended to be used; the date of purchase, and the date and place of delivery, or appropriation; the name of the purchaser or user; the name of the agent or employee actually making the purchase, or appropriation, if any; the seller and place of business of seller; the manner of delivery. And the said invoice of exemption shall show thereon such other information as the Comptroller may require; and no refund shall be allowed unless the refund dealer executes such an invoice of exemption containing said information, except as herein provided. If it be shown to the Comptroller by evidence sufficient and satisfactory to the Comptroller that the motor fuel was in good faith used by claimant for

exempt purposes and the invoice of exemption did not issue upon the delivery of the motor fuel, through no fault of the claimant, the rights of the claimant shall not be prejudiced because of the invoice of exemption not having been issued upon the delivery of the motor fuel, and the Comptroller shall issue warrant in payment of the claim.

And provided further, that the person selling such motor fuel, or the refund dealer, in issuing invoices of exemption to the user of such motor fuel shall make such invoices in duplicate, the duplicate of which shall be delivered to the user of such motor fuel, and the original shall be retained by the refund dealer for a period of two (2) years, at the place of business designated in the refund dealer's license, in the same manner and subject to the same examination as required of other records of motor fuel to be kept.

Each invoice of exemption shall also be signed by the user of such motor fuel, or by his duly authorized agent. But, if the user of such motor fuel is not present at the time of delivery, and cannot sign the invoice of exemption at the time of delivery, then he shall be required to sign such invoice at his first opportunity thereafter. The refund dealer or employee of said refund dealer shall not sign for the purchaser when issuing the invoice of exemption.

(d) When a claimant purchases or acquires for use motor fuel upon which a refund of the tax may be due, he shall within six (6) months from the date of delivery of the motor fuel upon which a refund is claimed, and not thereafter, file with the Comptroller an affidavit, on such form as may be prescribed by the Comptroller. Said affidavit shall include a statement as to the source or place of purchase or acquisition of such motor fuel used for purposes other than in propelling motor vehicles over the highways of this State; that the information stated in the attached duplicate copy of the invoice of exemption is true and correct, and the manner in which said motor fuel was used, and that no part of said motor fuel was used in propelling motor vehicles over the highways of this State. Said affidavit shall be accompanied by the duplicate copy of the invoice of exemption above referred to, and the Comptroller may require other affidavits in such form and time as he may deem advisable, and if he finds that such claims are just, and that the taxes claimed have actually been paid by claimant, then he shall issue warrant or warrants for the amounts due claimant, but no warrant shall be paid by the State Treasurer unless presented for payment within two (2) years from the close of the fiscal year in which said warrant was issued, but claims for the payment of such warrant may be presented to the Legislature for appropriation to be made from which said warrants may be paid.

No refund shall be made where motor fuel is used later than six (6) months from date of delivery or appropriation, and no refund shall ever be made where it appears from the invoice, or from the affidavits, or other evidence submitted, that the sale or delivery was made more than six (6) months prior to the date of filing of the application for refund. The date of filing shall be the day such claim is actually received in the Comptroller's office. In addition to other penalties prescribed in this Article, it is herein provided that a felony conviction for a violation of any provision of this Section of said Article shall automatically forfeit the right of said convicted person to sell motor fuel for refund purposes, and shall forfeit the right of said convicted person to file a claim and obtain a refund for a period of one (1) year from the date of said conviction.

No refund of the tax shall be allowed on motor fuel used in any registered or licensed motor vehicle or in any motor vehicle operated or

intended to be operated in whole or in part upon any of the highways, roads, and streets of this State.

If any person shall export or lose by fire or other accident any motor fuel in quantities of one hundred (100) gallons or more, so that the same may never be made use of within this State, after the tax has been paid on such motor fuel, or shall sell motor fuel upon which the tax has been paid, in any quantities, to the United States Government, for the exclusive use of said Government, claim for refund of the tax so paid may be made in the manner herein provided, or as the Comptroller may direct. Provided, however, that showing must be made that said tax was paid or accounted for by a licensed and bonded distributor, and the Comptroller shall deduct from such refund the one (1) per cent allowed to distributors making the first sale, distribution or use of motor fuel in Texas. Provided, further, that a bonded and licensed distributor may, in lieu of filing claim for refund of the tax paid on motor fuel thereafter exported or sold to the United States Government for the exclusive use of said Government, take credit on any monthly report and tax payment made to the Comptroller within six (6) months of the date of said sale or exportation, for the amount of tax so paid.

"Any motor fuel dealer in this State may, by agreement with any distributor from whom he purchases motor fuel, sell motor fuel for the account of said distributor free of the tax levied herein to the United States Government, for the exclusive use of said Government, by obtaining in lieu of said tax payment, and as proof of said sale, the United States Government Standard Tax Exemption Certificate properly executed and signed by an officer of the Government authorized to sign the same, or any other certificate of proof of sale acceptable to the Comptroller, which said certificate shall show the quantity of motor fuel involved in each such sale. Provided that if the motor fuel tax levied herein has, prior to such sales to the United States Government, been paid to the distributor by said dealer and in turn paid by said distributor to the State of Texas, the said distributor may, at any time within six (6) months of said sale, take credit on his monthly reports and tax payments to the Comptroller for the amount of tax paid by him on such sales. Provided, however, that the said certificate issued by said Government to cover such sales shall be collected from such dealer or dealers by said distributor and conserved as a record for a period of two (2) years as evidence of such sales and no credit shall be taken on said monthly tax reports and payments until said certificates have been received by said distributor.

(e) When the Comptroller has issued a refund dealer's license to any person desiring to sell or distribute motor fuel upon which a refund of the tax is authorized, or upon which a claim is to be filed for a refund of the tax, the Comptroller shall issue to such refund dealer a book, or books, of blank invoices of exemption, which invoices shall be serially numbered, and an original and a duplicate of each invoice shall be made. The Comptroller shall keep accurate records of the number of books of invoices of exemption issued and furnished to each refund dealer, and the refund dealer shall, at all times, account for all such books of invoices of exemption so received by him. Any invoices of exemption mutilated or unusable must be returned to the Comptroller by the refund dealer for credit to his account, and any unissued invoice of exemption lost or destroyed must be reported to the Comptroller by such refund dealer. The Comptroller shall not issue any additional books of invoices of exemption to any refund dealer until he has made proper accounting for each invoice of exemption theretofore issued him. The books of invoices of exemption issued are not transferable or assignable by such refund dealer unless

such transfer or assignment is authorized by the Comptroller, and failure by such refund dealer to make proper accounting for all invoices of exemption issued to him by the Comptroller shall be cause for the cancellation of his license as a refund dealer as herein provided.

If the duplicate invoice of exemption retained by purchaser is lost, or destroyed, by purchaser, such purchaser may make application to the Comptroller for forms to be issued in lieu of lost duplicate.

The invoice of exemption required by this Article shall be furnished, free of cost, by the Comptroller to the refund dealer. And, no forms of invoices of exemption shall be used by the dealer or person using refund motor fuel other than those issued and furnished by the Comptroller.

(f) All filing fees shall be paid into the State Treasury and be paid out on vouchers and warrants in such manner as may be prescribed by law.

(g) All the moneys paid into the Treasury under the provisions of this Article, except the filing fees provided herein, shall be set aside in a special fund to be known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer, showing the total maximum amount of refunds that may be required to be paid by the State out of said funds. The Comptroller shall on the 20th day of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on sale of motor fuel during the preceding month, upon which a refund may be due, and shall certify to the Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds, and shall not distribute that part of said fund until the expiration of the time in which a refund can be made out of said fund, but as soon as said report has been made by the Comptroller and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the remainder of such as provided by law. If the claimant has lost or loses, or for any reason failed or fails to receive warrant after warrant was or has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided for in Article 4365, Revised Civil Statutes of Texas of 1925.

(h) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided for herein, and if a specific amount be necessary then there is hereby appropriated and set aside for said purpose the sum of Two Hundred Thousand Dollars (\$200,000), or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the one (1) per cent deducted originally by the distributor upon the first sale or distribution shall be deducted in computing the refund. The Comptroller shall deduct fifty (50) cents from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund, which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of this Article, as well as for the payment of expenses in furnishing the form of invoice of exemption and other forms provided for herein, and the same is hereby appropriated for such purpose. As amended Acts 1943, 48th Leg., p. 441, ch. 298, § 2.

Approved May 10, 1943.
Effective 90 days after May 11, 1943, date
of adjournment.

Taxes, penalties and interest accruing
prior to 1943 amendment not affected, see
7065b-5 note.

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

Art. 7065b—14. Liquefied gas and other liquid fuels; tax on; permit to use; bond; application; payment of tax; release of sureties; connection of carburetor with cargo tank forbidden; records; enforcement

(a) From and after the effective date of this Article, there shall be and is hereby levied and imposed an excise tax of four (4) cents per gallon, or fractional part thereof, on all users of liquefied gases, and six (6) cents per gallon, or fractional part thereof, on all users of other liquid fuels, upon the use of such liquefied gases and other liquid fuels by any person within this State only when such liquefied gases and other liquid fuels are used in an internal combustion engine for the generation of power to propel motor vehicles upon the public highways of this State. Said tax shall be computed and paid to the State of Texas through the Comptroller at the time and in the manner hereinafter provided.

The term "use" wherever used in this Section shall mean and include the consumption of "liquefied gases" and "other liquid fuels," as those terms are defined in Section 1 of this Article, by any person in a motor vehicle for the propulsion thereof upon the public highways of this State.

Each "user" shall be prima facie presumed to have used or consumed for taxable purposes all liquefied gases and other liquid fuels shown by a duly verified audit of the Comptroller to have been purchased or received by him, and not accounted for.

From and after the effective date of this Article, any person using, or who may thereafter desire to use liquefied gases or other liquid fuels defined herein, for the purpose of the propulsion of motor vehicles upon the public highways of this State, shall file with the Comptroller of Public Accounts, an application for a permit to use said products, as herein provided, in such form as the Comptroller may prescribe, giving the correct name and address of the person making application, the make, horse power, motor number, highway license number, and fuel tank capacity of each vehicle intended to be used, including all auxiliary tanks, and a new application shall be filed on or before December 31st of each year for a permit for the subsequent calendar year. The application shall carry an agreement to file information with the Comptroller of any additional equipment acquired, or any changes in equipment being used, during the period for which permit is issued, and such other information as the Comptroller may require. Said permit may be revoked for violation of any provision hereof. As amended Acts 1943, 48th Leg., p. 441, ch. 298, § 3.

(b) Concurrently with the filing of said application, every user shall file with the Comptroller a bond in the amount of One Hundred Dollars (\$100) for each vehicle to be used, which bond shall be executed by a surety company or surety companies, acceptable to the Comptroller, who is authorized to write surety bonds within this State or the equivalent in cash, or securities, to be approved by the Comptroller. Said bond shall be posted to guarantee payment of taxes levied herein, together with penalties and interest, and shall be conditioned upon the compliance with all other provisions of this Article affecting said user, and shall be upon a form prepared by the Attorney General of Texas. Cash or securities pledged in lieu of bond shall be held in suspense by the Comptroller until all requirements of this Article applicable to the user have been complied with. Provided, the Comptroller may permit an exchange of bonds, or require new bonds as his discretion may direct.

Surety bonds posted under the requirements of this Section shall expire on December 31st of each year, and may be continued in force for the succeeding twelve (12) months by renewal certificate issued by the

surety thereon. Bonds may be increased or reduced by certificate of the surety thereon, effective to December 31st succeeding, if additional vehicles shall be acquired by the user, or if the number of vehicles is reduced during the period covered by the license and bond.

(c) The application in proper form and bond, cash, or securities having been filed with and accepted by the Comptroller, a nontransferable permit, or certificate of said permit, shall be issued to the person, which shall expire on December 31st subsequent to the issuance thereof, and which shall be serially numbered and signed by the Comptroller, for each vehicle enumerated within the application, and shall have written thereon the highway license number and factory motor number of the vehicle. Said certificate shall be appropriately worded to identify the person or his agent as licensee under the provisions of this Article, entitled to use liquefied gases or other liquid fuels described herein, assuming the tax liability incurred by the use thereof, and a certificate of such permit to be furnished by the Comptroller shall be framed and affixed in the cab of said vehicle to accompany said vehicle whenever used in this State.

(d) Every "user" of liquefied gases or other liquid fuels in this State shall upon the 20th day of each calendar month pay to the State of Texas, at the office of the Comptroller, at Austin, Travis County, Texas, the amount of tax levied herein and due upon all the liquefied gases and other liquid fuels used by him during the calendar month next preceding, and at the same time such user shall make and deliver to the Comptroller, at his office in said City, County, and State, a report properly sworn to, showing the date said report was executed, the name and address of said user and the month which the report covers, and which report shall show separately the number of gallons of liquefied gases and other liquid fuels on hand at the beginning and end of each month, the number of gallons purchased, received, or acquired in any manner in Texas, the number of gallons imported into Texas in the fuel tank of a motor vehicle, or otherwise, and the number of gallons used in each motor vehicle separately, showing the make, horsepower, and license number of each said motor vehicle, and the number of gallons sold or otherwise disposed of. Said report shall also show complete information concerning each person from whom said products were purchased, including the name and address of such person, the date of each purchase, the number of gallons purchased from each person, and the kind of product purchased, showing liquefied gases separately from other liquid fuels purchased.

(e) It is expressly provided that any carrier-for-hire operating under a certificate of convenience and necessity issued by the Railroad Commission of this State, and who is not engaged in the business of selling or distributing motor fuel or other taxable petroleum products, or in transporting such products for the purpose of sale or distribution for sale, and any person operating motor buses under franchises or licenses issued by municipalities, who purchase from bonded distributors holding permits under the terms of this Article, all the liquefied gases and other liquid fuels used by said carriers and said persons in propelling motor vehicles upon the public highways of this State, in quantities of not less than five hundred (500) gallons at a single purchase and delivery, shall, if the tax is paid by said carrier or person to said distributor at the rate of four (4) cents upon each gallon of said liquefied gases or other liquid fuels except diesel fuel, in which case the rate of eight (8) cents upon each gallon, so purchased or received, be exempt from the provisions of this Section requiring a user's permit to purchase, possess and use such products, and the other provisions incident to such user's permit. Provided, however, that said carriers and said persons shall be required to file information with the Comptroller showing the make, horsepower, motor number, highway license number, and the fuel tank ca-

capacity, including auxiliary fuel tanks, of each and every motor vehicle using said products, and information showing any additional motor vehicles acquired and using said products, and any changes in such motor vehicles being used. The said persons and carriers shall be required to secure upon each purchase or receipt of liquefied gases and other liquid fuels and keep for a period of two (2) years for the inspection of the Comptroller, or his authorized representatives, a manifest, containing all the information required to be recorded thereon by Section 9 (b) of this Article. Provided further, that any distributor who shall collect the said tax upon the sale or distribution of liquefied gases or other liquid fuels as hereinabove provided, shall be required to include the said tax so collected in the report and remittance required to be delivered to the Comptroller by Section 3 of this Article. Failure to report and pay over to the State of Texas any taxes collected by a distributor upon the sale or distribution of said products shall subject said distributor to all the liabilities, penalties, forfeitures, interest and costs provided in this Article for the failure to report and pay to the State of Texas motor fuel taxes collected.

(f) Any surety on any bond furnished by any user as above provided shall be released and discharged from any and all liability to the State of Texas accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the Comptroller written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release, or discharge such surety from any liability already accrued, or which shall accrue before the expiration of said thirty (30) day period. The Comptroller shall promptly on receipt of notice of such request notify the user who furnished such bond, and unless such user shall on or before the expiration of such thirty (30) day period file with the Comptroller a new bond with a surety company duly authorized to do business under the laws of the State, in the amount and form hereinbefore in this Section provided, the Comptroller shall forthwith cancel the permit of said user. If such new bond shall be furnished by said user as above provided, the Comptroller shall cancel the bond for which such new bond was substituted. Provided further, that suit may be filed against any surety or sureties on any bond furnished by a user, without first resorting to or exhausting the assets of said user or without making said user, as principal obligor in said bond, a party to said suit.

(g) All taxes, penalties, interest, and costs due by any user to the State shall be secured by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, regardless of the time such liens originated, upon the motor vehicles or other equipment in which said taxable liquefied gases or other liquid fuels were used.

(h) After this Article becomes effective as a law, it shall be unlawful for any distributor or dealer to make sales and deliveries of liquefied gases or other liquid fuels as defined herein into the fuel tank of any motor vehicle for the propulsion of motor vehicles, to any person who does not at the time hold and exhibit a valid use tax permit or certificate thereof issued by the Comptroller authorizing such purchases.

(i) From and after the effective date of this Article, no vehicle shall operate upon the highways of this State with connection from cargo to carburetor for the purpose of withdrawing gas, liquefied gas, or other liquid fuel from said cargo tank; and fuel tanks, including auxiliary fuel tanks, shall be separate and apart from cargo tank, with no connection by pipe, tube, valve, or otherwise. It shall be a violation of this Article to sell and deliver liquefied gas, or other liquid fuel, from any fuel tank or auxiliary fuel tank.

(j) Users as defined herein shall maintain for the inspection of the Comptroller, or his authorized representatives, complete records of purchases or other receipts of such liquefied gases and other liquid fuels for a period of two (2) years, and shall keep a complete record of the quantity of liquefied gases and other liquid fuels consumed separately in each motor vehicle in operation in this State. Such record shall include all the information to be contained in the report required herein to be filed with the Comptroller. Provided further, that all persons selling liquefied gases and other liquid fuels in this State shall keep for two (2) years a complete record of each sale of said products made to a user.

Nonresident users shall be required to exhibit records in this State upon request of the Comptroller or his authorized agents.

In event the records and reports of a user have not been maintained and filed with the Comptroller, as provided herein, the said Comptroller is hereby authorized to fix or establish the amount of tax, penalties, and interest due as shown by a verified audit of any records available to him or upon a basis of miles traveled by the motor vehicles of such user, and if the tax claim as developed by such procedure is not paid, the said claim shall be admissible in evidence in any suit or judicial proceedings filed by the Attorney General, and shall be prima facie evidence of the contents thereof; provided, however, that the prima facie presumption of the correctness of said claim may be overcome, upon the trial, by evidence adduced by said user.

(k) In order to enforce the provisions of this Article, the Comptroller, or his authorized agents, any highway patrolman, officer of the Department of Public Safety, Sheriff, Constable, or their deputies, and all other peace officers, are empowered to stop any motor vehicle which might appear to be using liquefied gas or other products described herein for the propulsion of said vehicle, for investigation. As amended Acts 1943, 48th Leg., p. 441, ch. 298, § 3.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Amendment to subdivision (a), approved May 10, 1943. Effective 90 days after May 11, 1943, date of adjournment.

Art. 7065b—27. Penalties for certain other violations; effect of conviction; venue of prosecution

(a) Whoever shall knowingly transport in any manner any motor fuel, casing-head gasoline, drip gasoline, natural gasoline, or absorption gasoline under a false manifest, or (b) whoever shall knowingly transport any of the foregoing named commodities in any quantity, required by law to be recorded upon a manifest, without then and there possessing or exhibiting upon demand by an authorized officer, a manifest, containing all the information required to be shown thereon, or (c) while transporting any of the foregoing named commodities, shall wilfully refuse to stop the motor vehicle he is operating when called upon to do so by a person authorized hereunder to stop said motor vehicle, or (d) shall refuse to permit the examination of his records and cargo by said authorized person, or (e) shall refuse to surrender his motor vehicle and cargo for impoundment when ordered to do so by a person authorized hereunder to impound said motor vehicle and cargo, or (f) shall refuse to permit said authorized person to inspect any plant or premises where motor fuel is refined, processed, made, or produced, or (g) shall refuse to permit said authorized person to inspect any plant or premises from which a first sale or distribution of motor fuel is made, or (h) shall refuse to permit said authorized persons to examine and gauge or measure the contents of all storage tanks and containers on said premises or to take samples there-

from, or (i) shall refuse to permit said authorized persons to inspect all equipment on said premises, or (j) whoever shall knowingly purchase or receive from a distributor motor fuel upon which a tax is required to be paid, without said tax being a part of the consideration involved in such transaction, or (k) whoever shall wilfully forge or falsify any invoice of exemption prescribed herein, or (l) whoever shall wilfully and knowingly make any false statement in any claim for refund delivered to or filed with the Comptroller, or (m) whoever as distributor shall make a first sale, distribution, or use of any motor fuel upon which a tax is required to be paid, without having at the time of said sale, distribution, or use, a valid permit as required, or (n) whoever as agent, employee, or representative of a distributor, shall make a first sale, distribution, or use of motor fuel knowing that such distributor does not have a valid permit, or (o) whoever as distributor, or as the agent, employee, or representative of a distributor, shall knowingly make, deliver to, and file with the Comptroller a false return or report or an incomplete return or report, or (p) whoever, as distributor, shall fail to make and deliver to the Comptroller a return or report as required to be made and delivered to said Comptroller, or (q) shall fail to keep for a period of two (2) years in Texas any books and records required to be kept by a distributor, or (r) whoever as distributor, or the agent, employee, or representative of a distributor, shall destroy, mutilate, secrete, or remove from the State any of the books and records required to be kept, or (s) shall refuse to permit the Comptroller, the Attorney General or their authorized representatives, to inspect, examine, and audit any books and records required to be kept, or any other pertinent books or records incident to the conduct of the business that may be kept, or (t) shall knowingly make any false entry or fail to make entries in the books and records required to be kept by a distributor, or (u) shall wilfully and knowingly fail or refuse to deliver a manifest upon the first sale or distribution of motor fuel to the purchaser or recipient of said motor fuel, or (v) whoever as user of liquefied gases or other liquid fuels, shall fail to make and deliver to the Comptroller a report as required to be made and delivered to said Comptroller, or (w) whoever as user or as agent, employee, or representative of a user of liquefied gases or other liquid fuel shall knowingly make and deliver to the Comptroller a false report or an incomplete report, shall be guilty of a felony, and upon conviction, shall be punished by confinement in the State penitentiary for not more than five (5) years or by confinement in the county jail for not less than one (1) month nor more than six (6) months, or by a fine of not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or by both such fine and imprisonment.

In addition to the foregoing penalties, it is herein provided that a felony conviction for any of the above named offenses shall automatically forfeit the right of said convicted person to obtain a permit as distributor of motor fuel, or user of liquefied gases or other liquid fuels, for a period of two (2) years.

Provided that if any penalties prescribed in Section 26¹ overlap as to offenses which are also punishable under Section 27 of this Article,² then the penalties prescribed in the said Section 27 shall apply and control over all such penalties. Venue of prosecution under Section 27 shall be in Travis County, Texas, or in the county in which the offense occurred. As amended Acts 1943, 48th Leg., p. 441, ch. 298, § 4.

¹ Article 7065b—26.

² This article.

Approved May 10, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Art. 7069. Expired Sept. 1, 1929

For Acts 1930, 41st Leg., 5th C.S., p. 175, ch. 37, containing similar provisions imposing occupation tax on text-book pub-

lishers, printers and sellers, see article 7047, § 41.

Art. 7076. 7388 Penalties recovered by suit

Reports to be made by executors and administrators of estates of decedents, see Vernon's Ann. Penal Code article 107a.

Art. 7083a. Allocation of revenue derived from certain occupation and gross receipts taxes; appropriations and allocations for certain funds

(4) After the above allocations and payments have been made from such Clearance Fund, there shall be paid therefrom into the Old Age Assistance Fund on the first of each month such sum which, taken with the unexpended balance of State funds in such Old Age Assistance Fund, will establish in the Old Age Assistance Fund a total of One Million Nine Hundred Thousand Dollars (\$1,900,000) in State funds for that month. No more than One Million Nine Hundred Thousand Dollars (\$1,900,000) in State funds, from whatever source, may be expended for old age assistance in any calendar month. If, on the first day of the calendar month, the unexpended balance in the Old Age Assistance Fund, plus the amount on that day transferred from the Clearance Fund to the Old Age Assistance Fund, shall not establish in the Old Age Assistance Fund the total sum of One Million Nine Hundred Thousand Dollars (\$1,900,000) in State funds for that month, then, in that event, there shall be deposited to the credit of the Old Age Assistance Fund from the first revenues collected after the first day of the month which would otherwise go into the General Revenue Fund such sum as, with the balance on hand in the Fund plus the payment from the Clearance Fund, will make available in the Old Age Assistance Fund a total amount of State funds for that month of One Million Nine Hundred Thousand Dollars (\$1,900,000). The Funds now on hand in, or hereafter deposited to the credit of, the Old Age Assistance Fund are hereby appropriated for the uses and purposes prescribed by law, subject, however, to the provisions of this Act. This appropriation is for the remainder of the fiscal year ending August 31, 1943. The One Million Nine Hundred Thousand Dollars (\$1,900,000) per month State funds herein appropriated shall be and is in lieu of all other State appropriations for old age assistance, and this State appropriation of One Million Nine Hundred Thousand Dollars (\$1,900,000) shall not include any funds received from the Federal Government. As amended Acts 1943, 48th Leg., p. 637, ch. 363, § 1.

Approved and effective May 22, 1943.

Section 2 of the amendatory Act of 1943 repealed all conflicting laws and parts of laws.

Section 3 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER THREE—FRANCHISE TAX

<p>Art. 7089b. Validity as against mortgagees, etc. [New].</p> <p>7089c. Secretary of State authorized to record [New].</p> <p>7089d. Recording and effect thereof [New].</p> <p>7089e. Enforcement as against property divested out of such corporation prior to the passage of the Act [New].</p>	<p>Art. 7089f. Limitations as to actions to enforce liens [New].</p> <p>7089g. Releases [New].</p> <p>7089h. Collection of taxes, penalties and interest against the corporation owing same [New].</p>
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Art. 7089b. Validity as against mortgagees, etc.

No lien granted the State of Texas by this Chapter shall be valid as against any mortgagee, pledgee, purchaser, party in possession or creditor acquiring rights, ownership or liens in such property unless and until notice of such State lien has been filed by the Secretary of State as hereinafter provided prior to the date on which such mortgagee, pledgee, purchaser, creditor or person in possession acquired such rights, liens or ownership. Added Acts 1943, 48th Leg., p. 476, ch. 318, § 1.

Approved May 13, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 7089c. Secretary of State authorized to record

The Secretary of State shall file and record with the Clerk of any County in which he has reason to believe any corporation owing franchise taxes, penalties and interest, has real or personal property a notice of the taxes, penalties and interest accruing under this Chapter and the liens securing the same on a form prepared or approved by the Attorney General of the State of Texas showing the name of the corporation owing such taxes, penalties and interest, the franchise taxes then due and owing and calling attention to the possible additional taxes, penalties and interest which might accrue in the future under the terms of this Chapter. Added Acts 1943, 48th Leg., p. 476, ch. 318, § 1.

Art. 7089d. Recording and effect thereof

The County Clerk of each county is hereby authorized to and shall file, record and index the notice provided for by the preceding paragraph, both as a Chattel Mortgage and as a mortgage on real estate in accordance with the statutes in such cases made and provided and when so filed, recorded and indexed, the same shall be and constitute notice to all parties dealing with the real and personal property of such corporation in said county of the taxes, penalties and interest then accrued and to accrue in the future and of the liens herein granted the State of Texas. Added Acts 1943, 48th Leg., p. 476, ch. 318, § 1.

Art. 7089e. Enforcement as against property divested out of such corporation prior to the passage of this Act

The lien provided for by Article 7089 as amended by House Bill No. 381, Regular Session, Forty-second Legislature, was never intended to extend to property or any interest therein, purchased by or mortgaged to or pledged to or attached by innocent persons, firms or corporations dealing with corporations owing taxes, penalties and interest under the terms of this Chapter, who acted in good faith in acquiring such prop-

erty or an interest therein or a lien thereon, and the State of Texas recognizes that the rights, titles and interest of such parties are superior to the lien provided by such Article as amended, and any such lien for taxes, penalties and interest due and owing under the provisions of this Chapter prior to the date of the passage of this Act¹ shall in no event extend to or be enforceable against any property, the title to which has been legally divested out of the corporation owing such taxes, penalties and interest prior to the date of the passage of this Act. Added Acts 1943, 48th Leg., p. 476, ch. 318, § 1.

¹ Articles 7089b—7089h.

Art. 7089f. Limitations as to actions to enforce liens

No suit shall in any event be brought or instituted for the enforcement of the liens granted the State of Texas by this Chapter unless the same shall be instituted within two (2) years from and after the time the corporation owing such taxes, penalties and interest shall forfeit its right to do business in this State under the provisions of this Chapter. Added Acts 1943, 48th Leg., p. 476, ch. 318, § 1.

Art. 7089g. Releases

The Secretary of State is hereby authorized to execute and deliver (1) complete releases of the liens herein provided for upon payment in full of the taxes, penalties and interest and (2) partial releases releasing particular property upon payment of such sum as the Secretary of State may deem adequate and proper under all circumstances. Such releases shall be on a form prepared or approved by the Attorney General of the State of Texas. Added Acts 1943, 48th Leg., p. 476, ch. 318, § 1.

Art. 7089h. Collection of taxes, penalties and interest against the corporation owing same

Nothing in this Act¹ contained shall prevent the State of Texas from collecting or enforcing by suit or attachment at any time such franchise taxes, penalties and interest from the corporation owing the same. Added Acts 1943, 48th Leg., p. 476, ch. 318, § 1.

¹ Articles 7089b—7089h.

CHAPTER SIX—PROPERTY SUBJECT TO TAXATION AND RENDITION

Art. 7150. 7507, 5065 Exemption from taxation

4. Public Property.—All property, whether real or personal, belonging exclusively to the United States, provided that such exemption from taxation shall not include any real property subject to taxation under any Federal Statute applicable thereto.

All property, whether real or personal, belonging exclusively to this State, or any political subdivision thereof, except that in each county in this State, where the State of Texas has or may acquire and own land for the purpose of establishing thereon State farms and employing thereon convict labor on State account, the penitentiary board or board of penitentiary commissioners, or other officers of the penitentiary having the management of the same, shall render said land for taxes to the tax assessor of said county; and the taxes on same shall be assessed and collected in the manner required by law for the assessment and collection of other taxes; provided that said taxes shall be assessed and collected for county

purposes only; and said county taxes shall be paid annually out of the revenue derived from such State farms respectively by the officer having the management thereof, and same shall be charged to the expense account of operating such farm. No debt shall be created against the general revenue of the State in case of the failure to pay said taxes out of the revenue of any such farm. In arriving at the amount to be paid in taxes to the counties the value of the land only shall be considered and not the value of the buildings and other improvements owned by the State and situated on said land. As amended Acts 1943, 48th Leg., p. 472, ch. 316, § 1.

4a. Districts and Authorities, property of; payments in lieu of taxes.—All property real or personal belonging exclusively to Districts and Authorities created directly by Acts of the Legislature pursuant to Article XVI, Section 59, of the Constitution as agencies of the State of Texas, and all property real or personal belonging exclusively to Districts and Authorities created or incorporated under laws enacted pursuant to Section 59, Article XVI of the Constitution; provided that if any such District or Authority has heretofore acquired or does hereafter acquire property which at the time of such acquisition is or was then subject to taxation, and is at the time of its acquisition being used for generating, transmitting, and distributing electric energy or power, such District or Authority shall at the times prescribed by law for the payment of ad valorem taxes make a payment in lieu of taxes to the State of Texas and to the county, city, and such taxing districts within which such property is situated; such payment in lieu of taxes to be in the amount which would be realized by levying an ad valorem tax at the current rate for the then current tax year based on the assessed value of such property for the last current tax year before being acquired by such District or Authority; provided further that no payment shall be made with respect to any property no longer owned by such District or Authority for generating, transmitting, or distributing electric energy or power. Such payment in lieu of taxes shall be made out of the revenues received by such District or Authority from the generation, transmission, or distribution of electric power and energy and the liability for same shall constitute a lien or encumbrance only on the Revenues of such District or Authority, and shall be considered as a part of the operating expenses. Specifically, no payments shall be made in lieu of taxes with respect to dams, dam sites, reservoir areas, and water distributing or irrigation systems. It is the expressed legislative intent of this Act that such Districts or Authorities make payments in lieu of taxes only with respect to properties which at the time of their acquisition were on the ad valorem tax rolls of the State of Texas or of any county, city, or any other taxing District of the State of Texas and which at the time of the acquisition were being used for generating, transmitting, or distributing electric power and energy; provided further that it is the expressed legislative intent that no payments shall be made in lieu of taxes with respect to dams, dam sites, reservoir areas, and water distributing or irrigation systems, belonging to any such Authority or District.

Also where any city or town acquires real and personal property located outside of its corporate limits and outside of the county in which such city or town is situated, except rural electrification lines owned and operated by it, and which is or may be used in the generation, manufacturing, selling or distributing of electricity, such city or town shall make payment in lieu of taxes on same to the State of Texas, the County, City, School districts and such other local taxing districts within which such property is located in like manner as hereinabove provided for such

Districts or Authorities; provided that this Subsection 4a shall not be applicable to such property acquired by a city or town situated on a county line.

And provided further, that any city or town may make such payments in lieu of taxes to the county in which said city or town is located, provided the city or town elects to make such payment by ordinance or resolution passed by the governing body of said city or town. Added Acts 1943, 48th Leg., p. 472, ch. 316, § 1.

Approved May 13, 1943.

Effective 90 days after May 11, 1943, date of adjournment. [H.C.R. No. 140, Acts 1943, 48th Leg., p. 1133, declared the amendatory Act of 1943, in full force and effect from and after May 11, 1943, the passage of such Resolution.]

Section 2 of the amendatory Act of 1943 repealed all conflicting laws and parts of laws.

Section 3 read as follows: "If any part, section, subsection, paragraph, sen-

tence, 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."

Section 4 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 7151. 7508, 5066 When to be rendered; condemning authorities considered owners when

All property shall be listed for taxation between January 1 and April 30 of each year, when required by the assessor, with reference to the quantity held or owned on the first day of January in the year for which the property is required to be listed or rendered. Any property purchased or acquired on the first day of January shall be listed by or for the person purchasing or acquiring it. If any property has, by reason of any special law, contract, or fact, been exempt or has been claimed to be exempted from taxation for any period or limit of time, and such period of exemption shall expire between January 1 and December 31 of any year, said property shall be assessed and listed for taxes as other property; but the taxes assessed against said property shall be for only the pro rata of taxes for the portion of such year remaining.

Provided further, that if the United States Government or any of its agencies having the power of condemnation shall take over the possession of property under authority of any law authorizing it to condemn said property, or under an option to buy said property from the owner, or under an agreement by the owner to sell said property, or shall comply with the laws relating to condemnation to such an extent as to entitle it to the possession of said property, or to constitute a taking thereof from the owner or person in whose name title rests, then such condemning authority shall be considered the owner of said property for all the purposes of state and county taxation from the date of taking possession thereof, or from the date of its complying with the condemnation laws to the extent that it is entitled to possession of said property, or from the date it has complied with the condemnation laws to the extent that there has been a taking of said property from the owner, whichever occurs first. As amended Acts 1943, 48th Leg., p. 190, ch. 109, § 1.

Approved and effective April 7, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

CHAPTER SEVEN—ASSESSMENT AND ASSESSORS

Art. 7219. 7577, 5127. Shall make out rolls in triplicate

Lands condemned by United States to be omitted from tax rolls for 1943

Acts 1943, 48th Leg., p. 110, ch. 82, approved and effective March 25, 1943, entitled "An Act directing officials charged with the duty of the assessment and collection of taxes in all counties in this State where the United States of America, prior to January 1, 1943, took possession of certain lands in said counties under condemnation proceedings, and acquired the beneficial title thereto, even though final payment was not made for the lands so taken prior to January 1, 1943, to omit said lands from the tax rolls for the year 1943 and not levy, assess, and collect any taxes upon said lands for 1943, since the United States of America had the equitable and beneficial title to said land on January 1, 1943; and declaring an emergency." read as follows:

"Section 1. Statement of Public Policy. Whereas, The United States of America has filed petitions in condemnation in various Federal Courts of this State pursuant to provisions of law in such cases made and provided, with the approval of the Attorney General of the United States, and pursuant to request of the Secretary of War, and against certain lands therein described and being located within certain counties in this State for the purpose of establishing and enlarging military camps; and

"WHEREAS, Said suits in condemnation were filed in 1942 and prior to January 1, 1943, and upon the filing thereof, in keeping with the provisions of law relating to such matters and by order of the Federal Courts, the United States of America took immediate possession of said lands and ejected the owners therefrom; and

"WHEREAS, On account thereof the owners of said lands were deprived of ownership and title in said lands effective with such possession, and since that time they have not been able to exercise any of the rights of ownership in so far as said lands are concerned, and such action on the part of the United States of America placed the

equitable and beneficial title to said lands in the United States of America, and divested said title out of said landowners; and

"WHEREAS, Due to circumstances beyond control of the parties there has been unavoidable delay in the payment for said lands; and

"WHEREAS, Although the former owners were divested of the beneficial title to said lands and the use and occupancy thereof prior to January 1, 1943, and have paid all taxes on said lands up to and including the year 1942, it has been proposed that they should pay taxes for the year 1943;

"Sec. 2. Legislative Intent. Therefore, it is the expressed purpose and legislative intent of this Act inasmuch as the equitable and beneficial title to said lands was in the United States of America on January 1, 1943, and inasmuch as the United States of America cannot be required to pay taxes upon the lands owned by it, that in order to clarify the matter the various taxing authorities should be directed not to place said lands upon the tax rolls for the year 1943, and that said 1943 taxes be not levied, assessed, or collected upon said lands.

"Sec. 3. That in all counties in this State wherein the United States of America under condemnation proceedings secured possession of lands for the purpose of establishing and enlarging military camps lying in said counties prior to January 1, 1943, under order of the Federal Courts, and as a result thereof the owners of said lands were deprived of the use, occupancy, beneficial title and possession thereof prior to January 1, 1943, that said lands be not placed upon the tax rolls for 1943, and that those officials charged with the duty of placing said lands upon the various tax rolls, and levying and collecting taxes for the year 1943, be and they are hereby authorized to and shall omit said lands from the tax rolls, and that taxes for 1943 shall not be levied, assessed, or collected against said lands."

CHAPTER EIGHT—COLLECTION AND COLLECTOR

Art. 7252. 7612, 5161, 4736 Deputies

Deputy assessor-collector in counties of 140,000 to 220,000, appointment by Commissioners Court, see article 3902a.

Art. 7297. 7661, 5212a Duty to sue

Venue of suits for collection of delinquent ad valorem taxes, see article 7345b—1.

CHAPTER TEN—DELINQUENT TAXES

Art.
7336j. Release of interest and penalties on taxes due by members of armed forces and auxiliaries during war [New].

Art.
7345b—1. Venue of suits to collect delinquent ad valorem taxes [New].

Art. 7323. 7539 Proceedings in tax suits

Pine forest lands sold to state, withdrawal from market and administration as state forests, see Art. 2613.

Art. 7336i. Release of interest and penalties on taxes delinquent July 1, 1940, if paid by November 1, 1941

This article, derived from Acts 1941, 47th Leg., p. 565, ch. 358, effective May 26, 1941, provided that all interest and penalties that had accrued on all ad valorem and

poll taxes that were delinquent on or before July 1, 1940 were released provided such taxes were paid by November 1, 1941.

Art. 7336j. Release of interest and penalties on taxes due by members of armed forces and auxiliaries during war

Section 1. That there is hereby released to all members of the Armed Forces of the United States of America and their auxiliaries, and all members of the Armed Forces Reserve of the United States of America and their auxiliaries, all interest and penalties accruing subsequent to their entry into such service, on State and county ad valorem taxes on property listed on the tax rolls of any county in the name of any of such members of the Armed Forces or their auxiliaries or the Armed Forces Reserve or their auxiliaries prior to the time they joined such Armed Forces or such auxiliaries; providing that the release of such interest and penalties shall extend for the duration of World War II, and providing that the respective members of such Armed Forces and such auxiliaries and such Armed Forces Reserve and their auxiliaries shall be allowed a period of not to exceed six (6) months after the cessation of hostilities in which to pay without penalty and interest their taxes which have accrued and which shall accrue during the duration of the war.

Sec. 2. All laws and parts of laws in conflict herewith are hereby expressly suspended during the term of this Act so far as they may affect this Act. Acts 1943, 48th Leg., p. 221, ch. 140.

Approved April 15, 1943.

Effective 90 days after May 11, 1943 date of adjournment.

Section 3 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act for the purpose of releasing to the members of the Armed Forces of the United States of America and their auxiliaries and members of the Armed Forces Reserve of the United States of America and their auxiliaries all interest and penalties accruing subsequent to their entry into such service, on State and county ad valorem taxes accruing on property listed on the tax rolls of any county in the name

of such members of the Armed Forces or their auxiliaries or the Armed Forces Reserve or their auxiliaries prior to the time they joined such Armed Forces or such auxiliaries; providing that the release of such interest and penalties shall extend for the duration of World War II, and providing that the respective members of such Armed Forces and such auxiliaries shall be allowed a period not to exceed six (6) months after the cessation of hostilities in which to pay without interest and penalty the delinquent taxes due by them; providing for the suspension of all laws and parts of laws in conflict herewith, and declaring an emergency. Acts 1943, 48th Leg., p. 221, ch. 140.

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

Art. 7345b—1. Venue of suits to collect delinquent ad valorem taxes

All actions or suits for the collection of delinquent ad valorem taxes on either real or personal property due the State of Texas or any political subdivisions thereof, shall be brought in a court of competent jurisdiction in the County in which such taxes were levied. Acts 1943, 48th Leg., p. 191, ch. 110, § 1.

Approved and effective March 29, 1943.

Section 2 of the Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to prescribe venue of actions and suits for collection of delinquent ad valorem taxes on real and personal property; and declaring an emergency. Acts 1943, 48th Leg., p. 191, ch. 110.

TITLE 125A—TRUSTS AND TRUSTEES

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| <p>Art.
7425b—1. Short title [New].
7425b—2. Definition of trust [New].
7425b—3. Purposes for which express trust may be established [New].
7425b—4. General definitions [New].
7425b—5. Person entitled to possession, rents and profits has legal estate [New].
7425b—6. Active trust valid [New].
7425b—7. Requisites of a trust [New].
7425b—8. Conveyance by trustees [New].
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7425b—26. Right of trustee to determine principal and income [New].
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7425b—28. Apportionment of income [New].
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Art. 7425a. Conveyance by trustees

The provisions of this article were re-enacted verbatim in the Texas Trust Act of 1943. See article 7425b—8.

Art. 7425b. Payment of money to trustees

The provisions of this article were re-enacted verbatim in the Texas Trust Act of 1943. See article 7425b—9.

Art. 7425b—1. Short title

This Act¹ may be cited as the Texas Trust Act. Acts 1943, 48th Leg., p. 232, ch. 148, § 1.

¹ Articles 7425b—1 to 7425b—47.

Approved April 19, 1943.

Section 48 of Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act concerning trusts and trustees; providing for the creation of trusts and the regulation of trusts and trustees; listing the permissible purposes of trusts; defin-

ing terms; locating legal estate to trust property in certain types of trusts of realty; enumerating the methods of creation of trusts; reenacting Sections (a) and (b) of Article 7425 of the Revised Civil Statutes of Texas; providing for the deposit of trust funds by corporate trustees; regulating inter-trust transactions and transactions between trustees and their trusts; relating to the powers, duties and responsibilities of trustees in the management of trust properties, including investment of trust funds and the methods of allocating principal and income and apportioning expenses between tenants and remaindermen in cases not governed by trust instruments; defining the powers attached to the office of trustee and prescribing modes for the exercise of such powers, including the exercise thereof by co-trustees; fixing and delineating the tort and contractual liabilities of trustees and trust estates; providing for exoneration or reimbursement

in the incurrence of certain of such liabilities, and prescribing a method whereby such liabilities may be enforced in the courts; enumerating the powers of trustees, including reserved powers, and beneficiaries; locating the legal estate of property subject to a trust and providing for the disposition of portions of legal or equitable estates not disposed of by the trust instrument; making provision for the death of trustees, authorizing the removal of trustees in certain contingencies, and providing for the selection of substitute and successor trustees and enumerating their powers and duties; providing for determination by the district court of certain matters relating to trusts and fixing the venue of such actions; reinstating provisions of the common law relative to trusts in certain contingencies; expressing the intent of the Legislature in passing this Act; and declaring an emergency. Acts 1943, 48th Leg., p. 232, ch. 148.

Art. 7425b—2. Definition of trust

"Trust", for the purposes of this Act,¹ means an express trust only, and does not include so-called "business trusts". Acts 1943, 48th Leg., p. 232, ch. 148, § 2.

¹ Articles 7425b—1 to 7425b—47.

Art. 7425b—3. Purposes for which express trust may be established

A trust in relation to, or consisting of real, and personal property, or either of them, may be created or established for any use or purpose, or for any uses or purposes, for which, and by whom, a binding contract may be made. Acts 1943, 48th Leg., p. 232, ch. 148, § 3.

Art. 7425b—4. General definitions

As used in this Act¹ unless the context or subject-matter otherwise requires:

A. "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or two or more persons having a joint or common interest.

B. "Trustor" means the maker, creator, donor, settlor, grantor, of a trust and the testator or testatrix of a will containing trust provisions.

C. "Trustee", as constituted in Section 7 hereof,² includes trustees, a corporate as well as a natural person and a successor or substitute trustee.

D. "Relative" means a spouse or, whether by blood or adoption, an ancestor, descendant, brother, or sister.

E. "Affiliate" means any person directly or indirectly controlling or controlled by another person, or any person under direct or indirect common control with another person. It includes any person with whom a trustee has an express or implied agreement regarding the purchase of trust investments by each from the other, directly or indirectly, except a broker or stock exchange.

F. "Principal" means any real or personal property which has been so set aside or limited by the owner thereof, or a person thereto, legally empowered that it and any substitutions for it are eventually to be conveyed, delivered, or paid to a person, while the return therefrom or use thereof, or any part of such return or use is in the meantime to be taken or received by or held for accumulation for the same or another person.

G. "Income" means the return derived from principal.

H. "Tenant" means the person to whom income is presently or currently payable, or for whom it is accumulated or who is entitled to the beneficial use of the principal presently and for a time prior to its distribution.

I. "Remainderman" means the person ultimately entitled to the principal, whether named or designated by the terms of the transaction by which the principal was established or determined by operation of law.

J. "Beneficiary" means any person entitled to receive from a trust any benefit of whatsoever kind or character.

K. "Trustee's compensation," as used in this Act, means the normal, recurring fee of the trustee for services in the management and administration of the trust estate, irrespective of the manner of computation of such fee. "Trustee's commission," as used in this Act, means the fee of the trustee for services rendered, other than in the normal management and administration of the trust estate, and includes extraordinary and unusual services, remuneration of the trustee for acceptance of the trust, distribution of the trust properties, termination of the trust estate, and all other fees of similar nature, as distinguished from regularly recurring compensation for the usual and ordinary management and supervision of the trust estate by the trustee. Acts 1943, 48th Leg., p. 232, ch. 148, § 4.

¹ Articles 7425b—1 to 7425b—47.

² Article 7425b—7.

Art. 7425b—5. Person entitled to possession, rents and profits has legal estate

Every person who, by virtue of any transfer or devise, is entitled to the actual possession of real property, and the receipts of the rents and profits thereof, is deemed to have a legal estate therein, of the same quality, extent, and duration, and subject to the same conditions as his beneficial interest therein. Acts 1943, 48th Leg., p. 232, ch. 148, § 5.

Art. 7425b—6. Active trust valid

The last preceding section¹ does not divest the estate of any trustee in a trust heretofore existing, where the title of such trustee is not merely nominal, but is connected with or subject to some power of actual disposition or management in relation to the real property, which is the subject of the trust. Acts 1943, 48th Leg., p. 232, ch. 148, § 6.

¹ Article 7425b—5.

Art. 7425b—7. Requisites of a trust

An express trust may be created by one of the following means or methods:

A. A declaration in writing by the owner of the property that he holds it as trustee for another person, or persons, or for himself and another person or persons; or

B. A written transfer inter vivos by the owner of property to another person as trustee for the transferor or for a third person or persons; or

C. A transfer by will by the owner of property to another person or persons as trustee for a third person or persons; provided that a natural person as trustee may be a beneficiary of any such trust.

D. An appointment by a person having a power of appointment to another person as trustee for the donee of the power or for a third person; or

E. A promise by a person to another person whose rights thereunder are to be held in trust for a third person; or

F. A beneficiary may be a co-trustee and the legal equitable title to the trust estate shall not merge by reason thereof.

Provided, however, that a trust in relation to or consisting of real property shall be invalid, unless created, established, or declared:

1. By a written instrument subscribed by the trustor or by his agent thereunto duly authorized by writing;

2. By any other instrument under which the trustee claims the estate affected. Acts 1943, 48th Leg., p. 232, ch. 148, § 7.

Art. 7425b—8. Conveyance by trustees

Where a trust is created, but is not contained or declared in the conveyance to the trustee, or when a conveyance or transfer is made to a trustee without disclosing the names of the beneficiary, or beneficiaries, the trustee shall be held to have the power to convey or transfer or encumber the title and whenever he shall execute and deliver a conveyance or transfer or encumbrance of such property, as trustee, such conveyance or transfer or encumbrance shall not thereafter be questioned by any one claiming as a beneficiary under such trust or by any one claiming by, through, or under an undisclosed beneficiary, provided that none of the trust property in the hands of said trustee shall be liable for personal obligations of said trustee. (Article 7425a, R.C.S. of Texas.) Acts 1943, 48th Leg., p. 232, ch. 148, § 8.

Art. 7425b—9. Payment of money to trustees

Whenever one shall actually and in good faith pay a sum of money to a trustee, which the trustee is authorized to receive, he shall not be responsible for the proper application of the money, according to the trust; and any right or title derived from the trustee in consideration of such payment shall not be impeached or called in question in consequence of a misapplication by the trustee of the money so paid. (Article 7425b, R.C.S. of Texas.) Acts 1943, 48th Leg., p. 232, ch. 148, § 9.

Art. 7425b—10. Loan of trust funds

Except as provided in Section 11 of this Act,¹ a corporate trustee shall not lend trust funds to itself or an affiliate (as defined herein), or to any director, officer, or employee of itself or of an affiliate; nor shall any non-corporate trustee lend trust funds to himself, or to his relative, employer, employee, partner, or other business associate. Acts 1943, 48th Leg., p. 232, ch. 148, § 10.

¹ Article 7425b—11.

Art. 7425b—11. Corporate trustee depositing trust funds with self

A corporate trustee may deposit with itself trust funds which are being held pending investment, distribution, or to pay debts, provided it maintains under control of its trust department (if it has a trust department separate from its banking department) as security for such deposit a separate fund consisting of securities legal for trust investments which have at all times during the deposit a total market value equal to the amount of the deposit. No such security shall be required to the extent said deposit is insured or otherwise secured by or under state or federal law. The separate fund of securities shall be marked as such. Withdrawals from or additions to it may be made from time to time, as long as the required value is maintained. The income of such securities shall belong to the corporate trustee. Acts 1943, 48th Leg., p. 232, ch. 148, § 11.

Art. 7425b—12. Trustee buying from or selling to self

A trustee shall not buy nor sell, either directly or indirectly, any property owned by or belonging to the trust estate, from or to itself or an affiliate; or from or to a director, officer, or employee of such trustee, or of

an affiliate; or from or to himself, a relative, employer, partner or other business associate; provided a national banking association, or a state chartered bank and trust company, or a state chartered trust company, or a state chartered bank having trust powers, or any other state chartered corporation having the right to exercise trust powers, when acting or serving as executor, administrator, guardian, trustee, or receiver, may sell shares of the capital stock of itself so owned or held by itself, for any estate, to one or more of its officers, stockholders or directors, upon a court of competent jurisdiction finding that any such sale will be to the best interest of the estate owning such shares, fixing or approving the price to be paid therefor, and the terms of sale, and upon entering an order, decree or judgment, authorizing, approving and directing such sale to be made. Acts 1943, 48th Leg., p. 232, ch. 148, § 12.

Art. 7425b—13. Trustee selling from one trust to another trust

A trustee shall not as trustee of one trust sell property to another trust estate of which it is trustee, except bonds, notes, bills and other obligations issued, or fully guaranteed as to both principal and interest, by the United States of America, which may be so sold and transferred by the trustee, from one trust estate to another, at the current market price. Acts 1943, 48th Leg., p. 232, ch. 148, § 13.

Art. 7425b—14. Corporate trustee buying its own stock

A corporate trustee shall not purchase for a trust, shares of its own stock, or its bonds, obligations, or other securities, or the stock, bonds, obligations, or other securities of an affiliate (as defined herein). A non-corporate trustee shall not purchase for a trust the stock, bonds, obligations, or other securities of a corporation with which such trustee is connected as director, owner, manager, or in an executive or official capacity.

This section shall not prohibit the retention of shares of stock already owned by the trust estate if such retention satisfied the provisions of Section 46 hereof.¹ Acts 1943, 48th Leg., p. 232, ch. 148, § 14.

¹ Article 7425b—46.

Art. 7425b—15. Voting stock

A trustee owning corporate stock may vote it by proxy, without power of substitution, in favor of one or more persons, or the survivors of them, and the trustee, in the absence of bad faith or gross negligence in selecting the person or persons to whom any proxy, either limited or unlimited, is given, shall not be liable for any financial loss resulting to the trust estate or the beneficiaries thereof in deciding how to vote the stock and in the voting of it. Acts 1943, 48th Leg., p. 232, ch. 148, § 15.

Art. 7425b—16. Holding stock in name of nominee

A trustee owning stock or property may hold same in the name of a nominee, without mention of the trust in the stock certificate or stock registration book, or other evidence of the title to such property; provided that:

A. The trust records and all reports or accounts rendered by the trustee clearly show the ownership of the stock or property by the trustee, and the facts regarding its holdings; and

B. The nominee deposits with the trustee a signed statement showing the trust ownership, endorses the stock certificate in blank, or executes an appropriate stock-power in blank and attaches thereto, or executes a conveyance or assignment of the title to said property, and does not have possession of the stock certificate or property or access thereto except under the immediate supervision of the trustee.

No such registration or holding shall relieve the trustee of liability for any loss to the trust resulting from any improper act of such nominee in connection with securities or properties so held. Acts 1943, 48th Leg., p. 232, ch. 148, § 16.

Art. 7425b—17. Powers attached to office

Unless otherwise expressly provided in this Act¹ or by the trust instrument, or an amendment thereof, or by court order, the exercise of all powers and discretions of a trustee shall be inherent in the office and shall not be personal. Acts 1943, 48th Leg., p. 232, ch. 148, § 17.

¹ Articles 7425b—1 to 7425b—47.

Art. 7425b—18. Powers exercisable by majority: survivor may execute trust

Unless it is otherwise provided by the trust instrument, or an amendment thereof, or by court order:

A. Any power vested in three or more trustees may be exercised by a majority of such trustees; but a trustee who has not joined in exercising a power shall not be liable to the beneficiaries or to others for the consequences of such exercise, nor shall a dissenting trustee be liable for the consequences of an act in which he joins at the direction of the majority trustees, if he expressed his dissent in writing to any of his co-trustees at or before the time of such joinder.

B. Where two or more trustees are appointed by will or a voluntary trust to execute a trust and one or more of them die, the surviving trustee or trustees may execute the trust and may exercise the discretionary powers given to the trustees jointly, unless the terms of the will or agreement expressly provide to the contrary.

C. Nothing in this section shall excuse a co-trustee from liability for failure to discharge his duties as trustee. Acts 1943, 48th Leg., p. 232, ch. 148, § 18.

Art. 7425b—19. Contracts of trustee

Whenever a trustee shall make a contract which is within his powers as trustee, or a predecessor trustee shall have made such a contract, and a cause of action arises thereon:

A. The party in whose favor the cause of action has accrued may sue the trustee in his representative capacity, and any judgment rendered in such action in favor of the plaintiff shall be collectible by execution out of the trust property. In such an action the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if he had paid the plaintiff's claim.

B. No judgment shall be rendered in favor of the plaintiff in such action unless he proves that within thirty (30) days after the beginning of such action, or within such other time as the court may fix, and more than thirty (30) days prior to obtaining the judgment, he notified each of the beneficiaries known to the trustee who then had a present or contingent interest, or in the case of a charitable trust the Attorney General of Texas and any corporation which is a beneficiary or agency in the performance of such charitable trust, of the existence and nature of the action. Such notice shall be given by mailing copies thereof by registered mail addressed to the parties to be notified at their last known addresses. The trustee shall furnish the plaintiff a list of the beneficiaries or persons having an interest in the trust estate, and their addresses, if their whereabouts are known to the trustee, within ten (10) days after written demand therefor, and notification of the persons on such list shall constitute compliance with the duty placed on the plaintiff by this section.

Any beneficiary, or in the case of charitable trusts the Attorney General of Texas, and any corporation which is a beneficiary or agency in the performance of such charitable trust, may intervene in such action and contest the right of the plaintiff to recover. If any beneficiary is a minor or has been adjudged incompetent, the court shall appoint a guardian ad litem, whose duty it shall be to defend such action.

C. The plaintiff may also hold the trustee who made the contract personally liable on such contract, if the contract does not exclude such personal liability. The addition of the word "trustee" or the words "as trustee" after the signature of a trustee to a contract shall be deemed prima facie evidence of an intent to exclude the trustee from personal liability. Acts 1943, 48th Leg., p. 232, ch. 148, § 19.

Art. 7425b—20. Exoneration or reimbursement for torts

A trustee who has incurred personal liability for a tort committed in the administration of the trust is entitled to exoneration therefor from the trust property:

A. If he has not discharged the claim, or to be reimbursed therefor out of trust funds if he has paid the claim; if

1. The tort was a common incident of the kind of business activity in which the trustee was properly engaged for the trust; or

2. Although the tort was not a common incident of such activity, if neither the trustee nor any officer or employee of the trustee was guilty of actionable negligence in incurring the liability.

B. If a trustee commits a tort which increases the value of the trust property, he shall be entitled to exoneration or reimbursement with respect thereto to the extent of such increase in value, even though he would not otherwise be entitled to exoneration or reimbursement. Acts 1943, 48th Leg., p. 232, ch. 148, § 20.

Art. 7425b—21. Tort liability of trust estate

Where a trustee or his predecessor has incurred personal liability for a tort committed in the course of his administration:

A. The trustee in his representative capacity may be sued and collection had from the trust property, if the court shall determine in such action:

1. That the tort was a common incident of the kind of business activity in which the trustee or his predecessor was properly engaged for the trust; or

2. That although the tort was not a common incident of such activity neither the trustee nor his predecessor, nor any officer or employee of the trustee or his predecessor, was guilty of actionable negligence in incurring the liability; or

3. That although the tort did not fall within classes 1 or 2 above, it increased the value of the trust property.

If the tort is within classes 1 or 2 above, collection may be had of the full amount of damage proved; and if the tort is within class 3 above, collection may be had only to the extent of the permanent increases in the value of the trust property.

B. In an action against the trustee in his representative capacity under this section the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if he had paid the plaintiff's claim.

C. No judgment shall be rendered in favor of the plaintiff in such action unless he proves that within thirty (30) days after the beginning of the action, or within such other period as the court may fix and more than thirty (30) days prior to obtaining the judgment, he notified each of the

beneficiaries known to the trustee, who then had a present or contingent interest of the existence and nature of the action. Such notice shall be given by registered mail addressed to such beneficiaries at their last known addresses. The trustee shall furnish the plaintiff a list of such beneficiaries and their addresses, within ten (10) days after written demand therefor, and notification of the persons on such list shall constitute compliance with the duty placed on the plaintiff by this section. Any beneficiary may intervene in such action and contest the right of the plaintiff to recover. If any beneficiary is a minor or has been adjudged incompetent, the court shall appoint a guardian ad litem, whose duty it shall be to defend such action.

D. The trustee may also be held personally liable for any tort committed by him, or his agents or employees in the course of their employments, subject to the rights of exoneration or reimbursement provided in Section 20 of this Act.¹ Acts 1943, 48th Leg., p. 232, ch. 148, § 21.

¹ Article 7425b—20.

Art. 7425b—22. Power of trustor

The trustor of any trust affected by this Act¹ may, by provisions in the instrument creating the trust, or by an amendment of the trust if the trustor reserved the power to amend the trust, relieve his trustee from any or all of the duties, restrictions, and liabilities which would otherwise be imposed upon him by this Act; or alter or deny to his trustee any or all of the privileges and powers conferred upon the trustee by this Act; or add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by this Act; but no act of the trustor shall relieve a corporate trustee from the duties, restrictions, and liabilities imposed upon it by Sections 10, 11, and 12 of this Act.² Acts 1943, 48th Leg., p. 232, ch. 148, § 22.

¹ Articles 7425b—1 to 7425b—47.

² Articles 7425b—10 to 7425b—12.

Art. 7425b—23. Power of beneficiary

Any beneficiary of a trust affected by this Act¹ may, if of full legal capacity and acting upon full information, by written instrument delivered to the trustee, relieve the trustee as to such beneficiary from any or all of the duties, restrictions, responsibilities and liabilities which would otherwise be imposed on the trustee by this Act, including the release of the trustee from any or all liability to such beneficiary for past violations of any of the provisions of the Act, except as to the duties, restrictions, and liabilities imposed on corporate trustees by Sections 10, 11, and 12 herein.² Acts 1943, 48th Leg., p. 232, ch. 148, § 23.

¹ Articles 7425b—10 to 7425b—12.

² Articles 7425b—10 to 7425b—12.

Art. 7425b—24. Power of the court

A. The district court shall have original jurisdiction to construe the provisions of any trust instrument; to determine the law applicable thereto; the powers, responsibilities, duties, and liability of trustee; the existence or non-existence of facts affecting the administration of the trust estate; to require accounting by trustee; and to surcharge trustee.

B. In cases where there be a single trustee, the venue of such actions shall be in the county of the residence of such trustee; or if a corporation, in the county of its principal place of business. Where there are two or more trustees, then the venue shall be in the county where the principal office of the trust is maintained.

C. Actions hereunder may be brought by a trustee, beneficiary, or any person affected by or having an active interest in the administration of the trust estate. If the action is predicated upon any act or obligation of any beneficiary, such beneficiary shall be a necessary party to the proceedings. The only necessary parties to such actions shall be those persons designated by name in the instrument creating the trust, and any persons who may be actually receiving distributions from the trust estate at the time the action is filed; contingent beneficiaries designated as a class shall not be necessary parties.

D. Except as otherwise provided herein, the provisions of the statutes and rules of court governing civil procedure, commencement of action, process, process by publication, appointment of guardians ad litem, supersedeas and appeal, shall govern all actions and proceedings instituted under the provisions of this Act.¹

E. A court of competent jurisdiction may, for cause shown and upon notice to the beneficiaries, relieve a trustee from any or all of the duties, limitations, and restrictions which would otherwise be placed upon him by this Act, or wholly or partly release and excuse a trustee, who has acted honestly and reasonably, from liability for violations of the provisions of this Act. Acts 1943, 48th Leg., p. 232, ch. 148, § 24.

¹ Articles 7425b—1 to 7425b—47.

Art. 7425b—25. Powers, duties, and responsibilities of trustees

In the absence of contrary or limiting provisions in the instrument creating the trust, or a subsequent order or decree of a court of competent jurisdiction, the trustee of an express trust is authorized:

A. To exchange, re-exchange, sub-divide, develop, improve, dedicate to public use, make or vacate public plats, adjust boundaries, and/or partition real property, and to adjust differences in valuation by giving or receiving money or money's worth. Easements may be dedicated to public use without consideration if deemed by the trustee to be for the best interest of the trust.

B. To grant options and to sell real or personal property at public auction or at private sale for cash, or upon credit secured by lien upon the property sold or upon such property or a part thereof and/or other property.

C. To grant or take leases of real property for any term of years, and of all rights and privileges above or below the surface of real property for any term or terms, including exploration for and removal of oil, gas, and other minerals, with or without options of purchase, and with or without covenants as to erection of buildings, or as to renewals thereof, through the term of the lease or renewals thereof, or of such options extending beyond the term of the trust.

D. To raze existing walls or buildings and/or erect new party walls or buildings alone or jointly with the owners of any adjacent property. To make ordinary repairs and in addition thereto such extraordinary alterations, changes, and additions in buildings or other structures which are necessary to make the property productive or more productive. To effect and keep in force, fire, rent, title, liability, casualty, or other insurance of any nature, in any form and in any amount.

E. To compromise, contest, arbitrate, or settle any and all claims of or against the trust estate or the trustee as such. To abandon property deemed by the trustee burdensome or valueless.

F. To pay calls, assessments, and any other sums chargeable or accruing against, or on account of shares of stock or other securities in the hands of the trustee where such payment may be legally enforceable against the trustee or any property of the trust, or where the trustee

deems payment expedient and for the best interests of the trust. To sell or exercise stock subscription or conversion rights, participate in the foreclosures, reorganizations, consolidations, mergers, liquidations, pooling agreements and voting trusts; to assent to corporate sales, leases, and encumbrances, and in general, except as limited by the particular will, indenture, trust agreement, or other trust instrument, have and exercise all powers of an absolute owner in respect of such securities. In the exercise of the foregoing powers the trustee shall be authorized, where he deems such course expedient, to deposit stocks, bonds, or other securities with any protective or other committee formed by or at the instance of persons holding similar securities, under such terms and conditions respecting the deposit thereof as the trustee may approve. Any stock or other securities obtained by conversion, reorganization, consolidation, merger, liquidation, or the exercise of subscription rights shall be free, unless the trust instrument provides otherwise, from any restrictions on sale or otherwise contained in the trust instrument relative to the securities originally held.

G. Generally to execute and deliver any deed or other instrument and to do all things in relation to such trust necessary, desirable, or advisable for carrying out any of the above powers or those considered incident to the purposes of such trust.

H. Employ attorneys, accountants, agents, and brokers reasonably necessary in the administration of the trust estate; permit real estate held in trust to be occupied by a surviving spouse or minor child of the trustor and, where reasonably necessary for the maintenance of the surviving wife or minor child, to invest trust funds in real property to be used for a home by any such beneficiary; make any contracts pertaining to oil, gas, or other natural resources as are customary in the community where the real property held in trust is situated; in the trustee's discretion to pay funeral expenses of any beneficiary actually receiving benefits from the trust estate at the time of his or her death.

I. The following rules of administration shall be applicable to all express trusts but such rules shall not be exclusive of those otherwise imposed by law, unless the latter be contrary to these rules:

1. Where a trustee is authorized to sell or dispose of land, such authority shall include the right to sell or dispose of a part thereof, whether the division is horizontal, vertical, or made in any other way, or of undivided interests therein.

2. Where a trustee is authorized by the trust instrument creating the trust or by law to pay, expend, or otherwise apply capital money subject to the trust for any purpose or in any manner, he shall have and shall be deemed always to have had the power to raise the money so required by selling, converting, calling in, or mortgaging or otherwise encumbering all or any part of the trust property for the time being in possession.

3. A trustee shall have a lien, and may reimburse himself with interest, for, or pay or discharge out of the trust property, either principal or income or both, all advances made for the convenience, benefit or protection of the trust or its property, and all expenses, losses, and liabilities, not resulting from the negligence of the trustee, incurred in or about the execution or protection of the trust or because of his holding or ownership of any property subject thereto.

4. When the happening of any event, including marriage, divorce, attainment of a certain age, performance of educational requirements, death, or any other event, determines or affects the distribution of income or principal of trust estates, the trustees shall not be liable for mistakes of fact made prior to the actual knowledge or written notice of such fact.

J. The powers, duties, and responsibilities stated in this Act¹ shall not be deemed to exclude other implied powers, duties, or responsibilities not inconsistent herewith.

K. Pay all taxes and assessments levied or assessed against the trust estate or the trustee by governmental taxing or assessing agencies.

L. Unless the instrument creating the trust provides to the contrary the law governing the giving of bond by executors shall be applicable to trustees; provided jurisdiction to fix the amount and approve such bonds is vested in the District Court. Provided, however, this subsection shall not apply to corporate trustees who have complied with the law concerning the deposit of securities with the State Treasurer. Acts 1943, 48th Leg., p. 232, ch. 148, § 25.

¹ Articles 7425b—1 to 7425b—47.

Art. 7425b—26. Right of trustee to determine principal and income

This Act¹ shall govern the ascertainment of income and principal, and the apportionment of receipts and expenses between tenants and remaindermen, in all cases where a principal has been established with or, unless otherwise stated hereinafter, without the interposition of a trust; except that in the establishment of the principal, provision may be made touching all matters covered by this Act, and the person establishing the principal may himself direct the manner of ascertainment of income and principal and the apportionment of receipts and expenses or grant discretion to the trustee or other person to do so, and such provision and direction, where not otherwise contrary to law, shall control notwithstanding this Act. Acts 1943, 48th Leg., p. 232, ch. 148, § 26.

¹ Articles 7425b—1 to 7425b—47.

Art. 7425b—27. Income and principal—disposition

Unless otherwise expressly provided in this Act:¹

A. All receipts of money or other property paid or delivered as rent of realty or hire of personalty or dividends payable other than in shares of the corporation, company, or association itself, or interest on money loaned, or interest on or the rental or use value of property wrongfully withheld or tortiously damaged, or otherwise in return for the use of principal, shall be deemed income.

B. All receipts of money or other property paid or delivered as the consideration for the sale or other transfer, or for the granting of an option for the sale or other transfer, not a leasing or letting, of property forming a part of the principal, or as a repayment of loans, or in liquidation of the assets of a corporation, or as the proceeds of property taken on eminent domain proceedings where separate awards to tenant and remaindermen are not made, or as proceeds of insurance upon property forming a part of the principal except where such insurance has been issued for the benefit of either tenant or remainderman alone, or otherwise as a refund or replacement or change in form of principal shall be deemed principal unless otherwise expressly provided in this Act. Any profit or loss resulting upon any change in form of principal shall enure to or fall upon principal.

C. All income after deduction of expenses properly chargeable to it, including reasonable reserves, shall be paid and delivered to the tenant or retained by him if already in his possession or held for accumulation where legally so directed by the terms of the transaction by which the principal was established; while the principal shall be held for ultimate distribution as determined by the terms of the transaction by which it was established or by law. Acts 1943, 48th Leg., p. 232, ch. 148, § 27.

¹ Articles 7425b—1 to 7425b—47.

Art. 7425b—28. Apportionment of income

Whenever a tenant shall have the right to income from periodic payments, which shall include rent, interest on loans, and annuities, but shall not include dividends, and such rights shall cease and determine by death or in any other manner at a time other than the date when such periodic payments should be paid, he or his personal representative shall be entitled to that portion of any such net income next payable which amounts to the same percentage thereof as the time elapsed from the last due date of such periodic payments to and including the day of the determination of his right is of the total period during which such income would normally accrue. The remaining income shall be paid to the person next entitled to income by the terms of the transaction by which the principal was established. But no action shall be brought by the trustee or tenant to recover such apportioned income or any portion thereof until after the day on which it would have become due to the tenant but for the determination of the right of the tenant entitled thereto. The provisions of this section shall apply whether an ultimate remainderman is specifically named or not. Likewise, when the right of the first tenant accrues at a time other than the payment dates of such periodic payments, he shall only receive that portion of such income which amounts to the same percentage thereof as the time during which he has been so entitled is of the total period during which such income would normally accrue; the balance shall be a part of the principal. Acts 1943, 48th Leg., p. 232, ch. 148, § 28.

Art. 7425b—29. Dividends and share rights

Dividends and share rights shall be allocated as follows:

A. All dividends on shares of a corporation, company or association (herein called corporation), forming a part of the principal which are payable in its own shares shall be deemed principal.

Subject to the provisions of this section, all dividends payable otherwise than in the shares of the corporation, company or association, itself, including ordinary and extraordinary cash dividends and dividends payable in shares or other securities or obligations of corporations other than the declaring corporation, unless the declaring corporation designates the source thereof as capital assets of the declaring corporation shall be deemed income. Where the trustee shall have the option of receiving a dividend either in cash or in the shares of the declaring corporation, it shall be considered as a cash dividend and deemed income, irrespective of the choice made by the trustee.

B. All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in such corporation, and the proceeds of any sale of such rights, shall be deemed principal. All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in another corporation, and the proceeds of any sale of such rights, shall be deemed income.

C. Where the assets of a corporation are liquidated, amounts paid upon corporate shares as cash dividends declared before such liquidation began or as arrears of preferred or guaranteed dividends shall be deemed income; all other amounts paid upon corporate shares on disbursement of the corporate assets to the stockholders shall be deemed principal. All disbursements of corporate assets to the stockholders, whenever made, which are designated by the corporation as a return of capital or division of corporate property shall be deemed principal.

D. Where a corporation succeeds another by merger, consolidation, or reorganization or otherwise acquires its assets, and the corporate shares of the succeeding corporation are issued to the shareholders of the origi-

nal corporation in like proportion to, or in substitution for, their shares of the original corporation, the two corporations shall be considered a single corporation in applying the provisions of this section. But two corporations shall not be considered a single corporation under this section merely because one owns corporate shares of or otherwise controls or directs the other.

E. In applying this section the person who is entitled to a dividend shall be the tenant at the time specified by the corporation as the date on which the stockholders entitled thereto are determined, or if no such time is specified then the tenant at the date of declaration of the dividend, shall be entitled thereto. Acts 1943, 48th Leg., p. 232, ch. 148, § 29.

Art. 7425b—30. Premium and discount bonds

Where any part of the principal consists of bonds or other obligations for the payment of money, they shall be deemed principal at their inventory value or in default thereof at their market value at the time the principal was established; or at their cost where purchased later, regardless of their par or maturity value; and upon their respective maturities or upon their sale any loss or gain realized thereon shall fall upon or enure to principal; except securities purchased on a discount basis and not bearing interest, in which cases the discount when received or recovered shall be income. Acts 1943, 48th Leg., p. 232, ch. 148, § 30.

Art. 7425b—31. Principal used in business

When principal is used in business, the net profits and any increase or decrease in the principal shall be allocated as follows:

A. Whenever a trustee or a tenant is authorized by the terms of the transaction by which the principal was established, or by law, to use any part of the principal in the continuance of a business which the original owner of the property comprising the principal had been carrying on, the net profits of such business attributable to such principal shall be deemed income.

B. Where such business consists of buying and selling property—including the buying and selling of goods, wares and merchandise in operating and conducting a retail or wholesale business—the net profits for any period shall be ascertained by deducting from the gross returns during and the inventory value of the property at the end of such period, the expenses and purchases during the period and the inventory value of the property at the beginning of such period.

C. Where such business does not consist of buying and selling property, the net income shall be computed in accordance with the customary practice of such business, but not in such way as to decrease the principal.

D. Any increase in the value of the principal used in such business shall be deemed principal, and all losses in any one calendar year, or fiscal year if it differs from calendar year, after the income from such business for that year has been exhausted, shall fall upon principal. Acts 1943, 48th Leg., p. 232, ch. 148, § 31.

Art. 7425b—32. Principal comprising animals

Where any part of the principal consists of animals employed in business, the provision of Section 31 of this Act¹ shall apply, and in other cases where the animals are held as a part of the principal partly or wholly because of the offspring or increase which they are expected to produce, all offspring or increase shall be deemed principal to the extent necessary to maintain the original number of such animals and the remainder shall

be deemed income; and in all other cases such offspring or increase shall be deemed income. Acts 1943, 48th Leg., p. 232, ch. 148, § 32.

¹ Article 7425b—31.

Art. 7425b—33. Disposition of natural resources

Where any part of the principal consists of any interest in lands, including royalties, over-riding royalties, and working interest, from which may be taken timber, minerals, oil, gas, or other natural resources and the trustee or tenant is authorized by law or by the terms of the transaction by which the principal or trust was established to sell, lease, or otherwise develop such natural resources, and no provision is made for the disposition of the net proceeds thereof after the payment of expenses and carrying charges on such property, such proceeds, if received as extension payments on a lease or bonus or consideration for the execution of the same, shall be deemed income, but if received as consideration, whether as royalties or otherwise, for the permanent severance of such natural resources from the lands, shall be apportioned to principal and income as follows:

Such percentage thereof as is permitted to be deducted for depletion under the then existing laws of the United States of America for federal income tax purposes shall be treated as principal and invested or held for the use and benefit of the remainderman, and the balance shall be treated as income subject to be disbursed to the tenant or person entitled thereto, or if no provision for such deduction for depletion is made by the then existing federal income tax laws, then twenty-seven and one-half (27½%) per cent of the net proceeds thereof each year shall be treated as principal and invested or held for the benefit of the remainderman and the balance shall be treated as income and subject to be disbursed to the tenant or person entitled to receive such income. Such disposition of proceeds shall apply whether the property is producing or non-producing at the time the trust becomes effective. Acts 1943, 48th Leg., p. 232, ch. 148, § 33.

Art. 7425b—34. Principal subject to depletion

Where any part of the principal in the possession or under the custody and control of the trustee consists of property other than natural resources, subject to depletion, such as leaseholds, patents, copyrights, and royalty rights, and the trustee or tenant in possession is not under a duty to change the form of the investment of the principal, the full amount of rents, royalties, or return from the property shall be income to the tenant; but where the trustee or tenant is under a duty, arising either by law or by the terms of the transaction by which the principal was established, to change the form of the investment, either at once or as soon as it may be done without loss, then the return from such property not in excess of five (5%) per cent per annum of its fair inventory value or in default thereof its market value at the time the principal was established, or at its cost where purchased later, shall be deemed income and the remainder principal. Acts 1943, 48th Leg., p. 232, ch. 148, § 34.

Art. 7425b—35. Unproductive estate

Upon conversion of any unproductive property, allocation between principal and income shall be as follows:

A. Where any part of a principal in the possession of a trustee consists of realty or personalty, whether tangible or intangible property, which for more than a year and until disposed of as hereinafter stated has not produced an average net income, not considering depreciation or obsolescence, of at least one (1%) per cent per annum of its fair inven-

tory value or in default thereof its market value at the time the principal was established or of its cost where purchased later, and the trustee is under a duty to change the form of the investment as soon as it may be done without sacrifice of value and such change is delayed, but is made before the principal is finally distributed, then the tenant, or in case of his death, his personal representative, shall be entitled to share in the net proceeds received from the property as delayed income to the extent hereinafter stated. The basis under this Section for establishing value of property acquired through foreclosure of a mortgage held by the trust, shall be the net investment in the property up to the date of re-sale by the trust and not the price bid at the foreclosure sale. Net investment shall consist of all moneys invested and advanced.

B. Such income shall be the difference between the net proceeds received from the property and the amount which, had it been placed at simple interest at the rate of four (4%) per cent per annum for the period during which the change was delayed, would have produced the net proceeds at the time of change, but in no event shall such income be more than the amount by which the net proceeds exceed the fair inventory value of the property or in default thereof its market value at the time the principal was established or its costs where purchased later. The net proceeds shall consist of the gross proceeds received from the property less any expenses incurred in disposing of it and less all carrying charges which have been paid out of principal during the period while it has been unproductive. No allocation to income shall be made when the net proceeds from any sale are less than the value of the property as determined by sub-section A of this section.

C. The change shall be taken to have been delayed from the time when the duty to make it first arose, which shall be presumed, in the absence of evidence to the contrary, to be one year after the trustee first received the property if then unproductive, otherwise one year after it became unproductive.

D. If the tenant has received any income from the property or has had any beneficial use thereof during the period while the change has been delayed, his share of the delayed income shall be reduced by the amount of such income received or the value of the use had.

E. In case of successive tenants the delayed income shall be divided among them or their representatives according to the length of the period for which each was entitled to income.

F. Where a trustee is required to change the form of investment under the provisions of the instrument by which the trust is created or under the existing law, he shall use reasonable care in determining the necessity for such change and the time and manner of changing said form of investment. Provided, that the provisions in this Section shall not be construed to require a trustee to change the form of an investment. Acts 1943, 48th Leg., p. 232, ch. 148, § 35.

Art. 7425b—36. Expenses—trust estate

Expenses of trust estates shall be chargeable to principal or income as follows:

A. All ordinary expenses incurred in connection with the trust estate or with its administration and management, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the estates of both tenant and remainderman, interest on mortgages on the principal, ordinary repairs, trustees' compensation except commissions computed on distributions of principal, compensation of assistants, and court costs and attorney's and other fees on regular accountings, shall be chargeable against income. But such ex-

penses where incurred in disposing of, or as carrying charges on, unproductive estate as defined in Section 35 of this Act,¹ shall be chargeable against principal, subject to the provisions of sub-section B. of Section 35 of this Act.

B. All other expenses, including trustees' commissions computed upon distributions of principal, cost of investing or re-investing principal, attorney's fees and other costs incurred in maintaining or defending any action to protect the trust or the property or assure the title thereof, unless due to the fault or cause of the tenant, and costs of, or assessments for, improvements to property forming part of the principal, shall be paid out of principal. Any tax levied by any authority, federal, state, or foreign, upon profit or gain defined as principal under the terms of sub-section B of Section 27 of this Act,² shall be paid out of principal, notwithstanding said tax may be denominated a tax upon income by the taxing authority.

C. Expenses paid out of income according to sub-section A of this Section which represent regularly recurring charges shall be considered to have accrued from day to day, and shall be apportioned on that basis whenever the right of the tenant begins or ends at some date other than the payment date of the expenses. Where the expenses to be paid out of the income are of unusual amount the trustee may distribute them throughout an entire year or part thereof, or throughout a series of years. After such distribution, where the right of the tenant ends during the period, the expense shall be apportioned between tenant and remainderman on the basis of such distribution.

D. Where the costs of, or special taxes or assessments for, an improvement representing an addition of value to property held by the trustee as part of principal are paid out of principal, as provided in sub-section B, the trustee shall reserve out of income and add to the principal each year a sum equal to the cost of the improvement divided by the number of years of the reasonably expected duration of the improvement. Acts 1943, 48th Leg., p. 232, ch. 148, § 36.

¹ Article 7425b—35.

² Article 7425b—27.

Art. 7425b—37. Death of trustee; duty of court

Upon the death of a sole or surviving trustee of an express trust and in the absence of the trust instrument providing for the appointment of a successor trustee, the power to appoint a trustee shall vest in the court having jurisdiction thereof, and on petition of any person interested in the trust estate such court shall appoint a successor in whom the trust shall vest. Acts 1943, 48th Leg., p. 232, ch. 148, § 37.

Art. 7425b—38. Resignation of trustee

Upon petition of any trustee of an express trust, a court having jurisdiction may accept his resignation, and discharge him from the trust upon such terms and conditions as the rights of the person interested in the trust may require. Acts 1943, 48th Leg., p. 232, ch. 148, § 38.

Art. 7425b—39. Removal of trustee

Trustees having materially violated (or attempted to violate) any express trust resulting in an actual financial loss to the trust, or becoming incompetent or insolvent, or of whose solvency or that of the sureties there is reasonable doubt, or for other cause, in the discretion of the court having jurisdiction, may, on petition of any person actually interested, after hearing, be removed by such court and denied compensation in whole or in part; and any beneficiary, co-trustee, or successor may treat the vio-

lation as a breach of trust; and all vacancies in express trusteeships may be filled by such court. Acts 1943, 48th Leg., p. 232, ch. 148, § 39.

Art. 7425b—40. Power and duties of successor trustees

Trustees appointed by the District Courts of Texas shall be vested with all the rights, powers, and other authority, trusts, privileges, discretion and title to properties conferred upon the trustee by the trust instrument, and by statute, unless otherwise provided by the court in the order of appointment; and shall be charged with all the duties, responsibilities and liabilities imposed by the trust instrument and by statute. Acts 1943, 48th Leg., p. 232, ch. 148, § 40.

Art. 7425b—41. Revocable unless expressly made irrevocable

Every trust shall be revocable by the trustor during his lifetime, unless expressly made irrevocable by the terms of the instrument creating the same or by a supplement or amendment thereto. Acts 1943, 48th Leg., p. 232, ch. 148, § 41.

Art. 7425b—42. Grantor may direct disposition on failure of trust

Notwithstanding anything contained in Section 42 of this Act,¹ the trustor of a trust may, in its creation, prescribe to whom the real or personal property to which the trust relates shall belong, in the event of the failure, termination, revocation or cancellation of the trust; and may transfer or devise such property, subject to the execution of the trust. Acts 1943, 48th Leg., p. 232, ch. 148, § 42.

¹ This article.

Art. 7425b—43. Legal estate in grantee subject to trust

The grantee or devisee of real or personal property that is subject to a trust acquires a legal estate in the property, against all persons except the trustees and those lawfully claiming under them. Acts 1943, 48th Leg., p. 232, ch. 148, § 43.

Art. 7425b—44. Status of estate not disposed of

Where an express trust is created in relation to real or personal property, every estate not embraced in the trust, and not otherwise disposed of, is left in the trustor of the trust or his legal successors in title. Acts 1943, 48th Leg., p. 232, ch. 148, § 44.

Art. 7425b—45. Re-instating common law

The repeal of any section of the statutory law of this state by this Act,¹ which repealed section abrogated or re-stated the common-law rule, shall operate to re-instate and re-establish the common-law rule applicable thereto, except as the subject matter thereof may be changed by the provisions of this Act. Acts 1943, 48th Leg., p. 232, ch. 148, § 45.

¹ Articles 7425b—1 to 7425b—47.

Art. 7425b—46. Investment powers of trustee

A. In acquiring, investing, re-investing, exchanging, retaining, selling, supervising and managing property for the benefit of another, the trustee shall exercise the judgment and care under the circumstances then prevailing, which men of ordinary prudence exercise in the management of their own affairs; but in no event shall the trustee invest funds of the trust estate in notes, stocks and bonds, except in the following investments:

1. Government bonds and obligations, the payment of which are guaranteed by the Government.
2. Bonds of the State of Texas and political subdivisions thereof, if not in default.
3. Bonds of the several states and political subdivisions thereof, if not in default.
4. Bonds of corporations with invested capital not less than One Hundred Thousand (\$100,000.00) Dollars provided the corporation has not defaulted in the payment of principal or interest on any of its obligations for a period of ten (10) years.
5. Notes secured by first and superior mortgage or lien on improved real estate, provided the notes do not exceed fifty (50%) per cent of the appraised value of the property securing the same at the time of their purchase.

B. Nothing contained in this Section of this Act shall be construed as authorizing any departure from, or variation of, the express terms, provisions or limitations set forth in any will, agreement, court order or other instrument creating or defining the trustee's duties, authority and powers, but the terms "legal investment" or "authorized investment," or words of similar import, as used in any such trust instrument, shall be taken to mean any investment which is permitted by the terms of Paragraph A hereof.

C. Nothing contained in this Section of this Act shall be construed as restricting the power of a court of competent jurisdiction to permit and authorize the trustee to deviate and vary from the terms of any will, agreement, or other trust instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale, supervision or management of trust property.

D. The provisions of this Section of this Act shall govern the trustee acting under wills, agreements, court orders and other trust instruments now existing or hereafter made.

E. The provisions of this Section of this Act shall be cumulative of all other provisions of the Civil Statutes of the State of Texas affecting the investment of funds or monies by the trustee. Acts 1943, 48th Leg., p. 232, ch. 148, § 46.

Art. 7425b—47. Constitutionality

It is hereby declared to be the legislative intent to enact a separate provision of this Act¹ independent of all other provisions, and the fact that any phrases, sentences, clauses or sections of this Act shall be declared unconstitutional shall in no event affect the validity of any of the other provisions hereof.

¹ Articles 7425b—1 to 7425b—47.

TITLE 126—TRUSTS—CONSPIRACIES AGAINST TRADE

Art. 7429a. Repealed. Acts 1943, 48th Leg., p. 654, ch. 372, § 12. Eff.

May 25, 1943

Offenses committed or prosecutions begun before repeal, see article 7047 note.

TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

2. BOARD OF WATER ENGINEERS

Art. 7506. Board to reject applications

It shall be the duty of the Board to reject all applications and refuse to issue the permit asked for if there is no unappropriated water in the source of supply; or if the proposed use will impair existing water rights, or is detrimental to the public welfare. As amended Acts 1943, 48th Leg., p. 455, ch. 303, § 1.

Approved and effective May 10, 1943. the Act should take effect from and after
 Section 2 of the amendatory Act of 1943 its passage.
 declared an emergency and provided that

CHAPTER TWO—WATER IMPROVEMENT DISTRICTS

Article 7622. Water Improvement districts established

Lands acquired by State under conven- including in water improvement districts,
 tion between United States and Mexico, see article 5415b.

Art. 7631. Election; manner; voters; election officials; ballots, printing and form

The manner of conducting elections herein provided for shall be governed by the general election laws of the State except as herein otherwise provided. At such election none but persons residing in the County wherein the District is located who own taxable real property within the District and who are qualified voters of the county under the laws of the State shall be entitled to vote. The County Commissioners' Court shall at the time of ordering said first election, by an order entered of record, create said proposed District, or the part thereof within said County, into one or more election precincts and shall name a polling place in each voting precinct, and shall appoint two judges and two clerks for each polling place, one of the judges to be designated as presiding judge. If any said officer so elected fail to serve, his place shall be filled in the manner provided by the general election laws. The court shall order printed one and one-half times as many ballots for said election as there are estimated to be qualified voters within such district. Said ballots for said election shall have printed thereon substantially the following:

"FOR WATER IMPROVEMENT DISTRICT"

"AGAINST WATER IMPROVEMENT DISTRICT"

"FOR ISSUANCE OF NOTES OF SAID DISTRICT"

"AGAINST ISSUANCE OF NOTES OF SAID DISTRICT"

and said ballot shall contain five blank lines upon which to write names of persons voted for, for the office of director with a heading:

"FOR DIRECTORS, FIVE TO BE ELECTED"

No other matter shall be placed on the ballot except the heading "Official Ballot". As amended Acts 1943, 48th Leg., p. 32, ch. 30, § 1.

Approved and effective Feb. 24, 1943.

Section 2 of the amendatory Act of 1943 the Act should take effect from and after
 declared an emergency and provided that its passage.

CHAPTER 3A—WATER CONTROL AND IMPROVEMENT DISTRICTS

<p>Art. 7880—3b2. Districts in counties over 500,000; contracts; advertisement; emergency requisitions [New].</p>	<p>Art. 7880—77b1. Dissolution of districts not completing plants within 10 years [New].</p>
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Art. 7880—3b2. Districts in counties over 500,000; contracts; advertisement; emergency requisitions

All Water Control and Improvement Districts now existing, or hereafter to be created, and located wholly within counties having a population in excess of five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census may enter into all necessary contracts for construction and repairs authorized by law. Where the amount exceeds One Thousand (\$1,000.00) Dollars, competitive bids on uniform written specifications shall be asked after advertisement one time in a newspaper of general circulation in the county, or in said District, for at least five (5) days prior to opening bids. Contracts shall be awarded to the lowest and best bidder, shall be reduced to writing, and a surety bond shall be required in a sum equal to the amount of the contract to insure the faithful performance of the contract and the payment of labor and materials.

Where the amount is One Thousand (\$1,000.00) Dollars or less, and more than One Hundred Fifty (\$150.00) Dollars, proposals without advertisement may be received and contracts awarded in like manner without advertisement or the requirement for bond. Purchases may be made, or contracts entered into, on emergency requisitions, where the amount of such purchase does not exceed One Hundred Fifty (\$150.00) Dollars. Acts 1943, 48th Leg., p. 413, ch. 280, § 2.

<p>Approved and effective May 8, 1943. Section 5 of the Act of 1943 read as follows: "The provisions of this Act shall be and remain in full force and effect until</p>	<p>the cessation of hostilities of the present war." Section 6 declared an emergency and provided that the Act should take effect from and after its passage.</p>
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Art. 7880—77b1. Dissolution of districts not completing plants within 10 years

Section 1. Any district now or hereafter organized as a water control and improvement district under the provisions of Chapter 25 of the Acts of the Regular Session of the Thirty-ninth Legislature, as amended,¹ which has not, within ten (10) years from the date of its organization, commenced and completed, in accordance with plans adopted by such district, the construction of a plant and improvements to carry out the purposes of its organization may, by a resolution of its board of directors spread upon the minutes, adopt the provisions of this Act, and upon such adoption, and upon a vote of the property taxpaying voters of the district, and upon the payment of its valid, enforceable indebtedness, may be dissolved as hereinafter provided.

¹ Articles 7880—1 et seq.

Findings; statement of indebtedness; bonds

Sec. 2. The board of directors of any such district, in their order adopting the provisions of this Act, shall find that the plans of the district are impracticable or that the purposes of the district should be

abandoned and shall state the reasons for so finding. The directors shall thereafter prepare or cause to be prepared and shall approve a statement of all valid enforceable indebtedness of the district and cause the same to be entered upon the minutes of the district and shall prepare or cause to be prepared an estimate of all expenses incurred or to be incurred in connection with the dissolution of the district and in connection with the collection of taxes sufficient to pay all valid enforceable indebtedness of the district and shall thereupon enter an order calling an election on the question as to whether or not the district shall be dissolved and bonds issued for the payment of such indebtedness and such expenses. The maximum amount of bonds to be voted upon and issued shall not exceed the total amount of said approved valid enforceable indebtedness and said estimate of expenses (exclusive of the estimated cost of collection of taxes) and the maximum interest rate on said bonds shall not exceed six (6) per cent per annum and said bonds shall mature serially over a period of not to exceed seven (7) years. The maximum amount of bonds (exclusive of interest and expenses of collection) to be issued shall not exceed an amount equal to Two Dollars (\$2) times the number of acres in the district for fees and expenses incident to the dissolution of said district.

Notice of election

Sec. 3. Notice of the election, stating the findings of the board of directors with reference to the dissolution of the district and the amount of bonds to be issued, the interest rate thereon, and the time and place of holding the election shall be given under the hand of the president and secretary of the board of directors by publication of such notice once a week for two (2) consecutive weeks in some newspaper having a general circulation in the county or counties in which said district or any part thereof is located, the first of which publications shall be at least fourteen (14) days before the date of such election. Such notice shall contain a statement of the estimates and said expenses incurred and to be incurred in connection with the dissolution of the district and the collection of taxes for the payment of the bonds and shall state that the bonds will be payable by the levy of taxes upon the taxable property within the district in proportion to the values thereof as provided in Section 7 hereof.

Proposition

Sec. 4. The proposition submitted at such election shall be as follows: "for the dissolution of the district and the issuance of dissolution bonds and the levy of taxes for the payment thereof" and "against the dissolution of the district and the issuance of dissolution bonds and the levy of taxes for the payment thereof." The said election shall be held and conducted and returns made and canvassed in accordance with the provisions of law for construction bond elections in such districts.

Issuance and sale of dissolution bonds

Sec. 5. If a majority of the voters at said election shall vote in favor of the dissolution of the district and the issuance of bonds and the levy of taxes for the payment thereof, the board of directors of such district shall proceed with the issuance and sale of said bonds, or any part thereof, (which shall be known as "Dissolution Bonds") at a price not less than ninety (90) per cent of the par value thereof plus accrued interest to the date of delivery, or the board of directors of the district may deliver the same or any part thereof in satisfaction of the valid enforceable indebtedness of the district for which the same are issued, or in payment of expenses incurred or to be incurred in connection with the dissolution of the district, or in payment of services rendered or to be rendered to the district. Said dissolution bonds shall be serially numbered com-

mencing with the first maturities and shall be issued in the name of the district, signed by the president and attested by the secretary, with the seal of the district affixed thereto, and may be issued with such maturities not exceeding seven (7) years from their date and in such denominations and may bear such interest not to exceed six (6) per cent per annum, as may be determined by the board of directors.

Destroying unsold bonds; contracts

Sec. 6. If a majority of the voters at said election shall vote in favor of the dissolution of the district, the board of directors shall proceed to destroy all unsold bonds of the district, and enter an order cancelling all unissued and unsold bonds theretofore authorized by the voters and after such destruction and the entry of such order, said bonds shall thereafter have no further force or effect. The directors, on behalf of the district, may also make such contracts with trustees, engineers, attorneys and others as may in their judgment be necessary or desirable to properly liquidate and wind up the affairs of the district and they may also assume such obligations made by others for the benefit of the district, or from which the district benefited, as in their judgment may be fair and equitable.

Order issuing dissolution bonds; tax

Sec. 7. The order issuing said dissolution bonds shall provide that the principal and interest thereof shall be payable out of the proceeds of a tax to be levied upon the taxable property located in the district in a total amount sufficient for the payment thereof, the amount of such tax to be arrived at as follows: The value of all of the taxable property of the district shall be taken at the assessed value thereof as determined and approved by the board of directors as hereinafter provided, and an amount equal to the total of the principal and all interest to maturity on the bonds voted, plus the estimated cost of collection of taxes, shall be assessed against the taxable property of the district upon an ad valorem basis.

The tax against the taxable property of each owner thereof shall be that portion of the total principal and interest of said bonds and costs of collection which the assessed value of the taxable property of such owner bears to the total of such assessed values in the district.

The amount of such tax on the taxable property of each owner shall be payable in equal annual installments during the period in which the bonds mature on dates to be specified in the order issuing the bonds.

Further provisions of order issuing bonds

Sec. 8. The order issuing the bonds shall further provide that any property owner may secure release of the entire amount of his taxable property as assessed on the rolls hereinafter provided for from the tax levied for said dissolution bonds, by the payment in cash of the full amount thereof computed as follows:

The interest rate upon the bonds shall be applied upon an annual basis to each unpaid installment of taxes for the number of years said installment of taxes must run before being due. The total of the items so computed shall be deducted from the face amount of the unpaid installments of taxes. Likewise, the interest rate upon the bonds shall be applied upon an annual basis to each unpaid past due installment of taxes for the number of years said installment has been past due, and there shall also be added ten (10) per cent of the face amount of each installment that is past due as a penalty, and the total of the items so computed shall be added to the unpaid installments.

The said order issuing said bonds shall further provide that any of said bonds with all unmatured interest thereon and all coupons appurtenant thereto, may be surrendered at any time in payment and satisfaction of all unpaid installments of such taxes on the following basis:

The interest rate upon the bonds shall be applied upon an annual basis to each unpaid installment of taxes for the number of years said installment must run before being due. The total of the items so computed shall be deducted from the face amount of the unpaid installments of taxes. Likewise the interest rate upon the bonds shall be applied to each unpaid installment of taxes for the number of years said installment has been past due. The total of the items so computed shall be added to the face amount of each unpaid installment of taxes. There shall also be added ten (10) per cent of the face amount of each installment of taxes that is past due, as a penalty. The amount of taxes found to be due by this method may be discharged by the surrender of the proper amount of dissolution bonds, together with all unpaid interest coupons appurtenant thereto, at the face value of said bonds and coupons.

The order issuing said bonds shall also provide that said bonds shall be called and redeemed by the trustee hereinafter provided for, in the inverse order of their maturity and in the inverse order of their serial numbers, out of any funds received in advance payment of taxes, not required for meeting any past due and unpaid principal and interest or the next maturing installment of principal and interest.

Approval and registration of dissolution bonds

Sec. 9. After the dissolution bonds shall have been issued by the district and before same are put in circulation, same shall, at the option of the district, either be submitted to and approved by the Attorney General and registered by the Comptroller as provided in Section 34 of Chapter 25, Acts of the Thirty-ninth Legislature, Regular Session (Vernon's 1936 Texas Statutes, Art. 7889-34), or be validated by suit as provided by Sections 95, 96, 97, 98, 99 and 100 of said Chapter 25 (Vernon's 1936 Texas Statutes, Arts. 7880-95, 7880-96, 7880-97, 7880-98, 7880-99 and 7880-100), the provisions of all of which Sections, so far as not inconsistent with this Act, are hereby made applicable to the dissolution bonds herein provided for.

Tax roll

Sec. 10. Prior to the issuance and delivery of said bonds, the board of directors of the district shall cause to be prepared in duplicate, a tax roll showing the full and true valuation of all property subject to taxation, and the name of the owner thereof, if known, and if not known, the said tax roll shall so state.

After said roll has been so prepared it shall be filed in the office of the district, if any, and if not, in the office of the county clerk of the county, or counties, in which said district is located, where same shall be subject to public inspection.

After said roll has been so filed for at least five (5) days, the directors shall publish or cause to be published a notice in some newspaper having a general circulation in the county or counties in which said district or any part thereof is located, once a week for two (2) consecutive weeks, the first of which publications shall be at least fourteen (14) days prior to the meeting of the board of directors, sitting as a board of equalization as hereinafter provided.

Said notice shall call attention to the filing of said tax roll and the name, the place or places where same is filed and may be inspected, and shall notify all interested persons of the time when and place where the board of directors will meet for the purpose of acting as a board of

equalization to examine, correct, equalize, appraise and approve the valuations upon the taxable property of the district and improvements thereon, as set forth in said tax roll.

Examination of tax roll

Sec. 11. At the time and place mentioned in said notice, the board of directors shall meet and proceed to examine said tax roll, and shall have power to send for persons, and papers, to administer oaths to persons who testify before the board, and to ascertain the full true value of all property subject to taxation. The board may lower or raise the valuation of all property listed on said roll, and cause property not appearing thereon to be placed thereon, and shall correct any and all errors of assessment and equalize the value of property appearing on said roll. The board shall equalize as near as possible the value of all property for taxation and fix the value of same for taxation. Any interested person may appear at said meeting and offer evidence for or against any matter being considered by said board. The board at said meeting shall finally fix the valuation of all taxable property in the district, and when the tax roll of the district has been finally prepared, the board of directors shall meet and consider the same and make all necessary corrections therein and endorse their approval thereon. The action of the board of directors in finally approving said tax roll shall be final and shall not be subject to revision by said board or in any other tribunal thereafter.

Filing tax roll

Sec. 12. After the final approval of said tax roll by the board of directors of the district, the board shall file same with the tax collector of the county or counties in which said district is located, who shall collect the taxes shown upon said roll on the land situated in the county for which he is collector at the time when and in the manner specified by the board of directors in their various orders issuing the dissolution bonds and levying said taxes. For his services in so doing, the said tax collector of said county shall be entitled to one per cent of the amount collected.

Trustee of funds collected

Sec. 13. Before the issuance and delivery of said bonds, the directors of said district shall appoint some individual or some bank or trust company within the county, or one of the counties, in which said district is located, trustee of the funds to be collected from said taxes and said bonds shall be payable at the place of business of said trustee. Said trustee shall receive from the tax collector or collectors all proceeds from such assessments less the collector's charges and shall also be the paying agent of the district for said bonds and said trustee and paying agent shall be authorized by the order providing for the issuance of said bonds to institute suits in the name of the district for the use and benefit of the holders of the bonds and to apply all sums of money recovered in such suits to the payment thereof, and the directors may make such provisions with reference to bond to be given by said trustee and the payment of said trustee out of the funds collected from such taxes and may make such other provisions with reference to the powers, rights, duties and liabilities and all other matters relating to said trusteeship and the appointment of successor trustees, as the directors may deem proper to effectuate the purpose of such trusteeship.

Penalties; interest and attorney's fees; foreclosure of lien

Sec. 14. Upon the filing of said tax rolls in the office of the tax collector as provided by Section 12 hereof such taxes, penalties and interest

and attorney's fees as herein provided shall become a specific charge upon and shall be secured by a superior lien superior to all other liens except tax liens, upon the personal property, lands and improvements listed therein, whether the ownership of the personal property, lands and improvements are correctly stated in said assessment roll or not, which said lien shall be foreclosed for the full amount due and order of sale issued against such property or so much thereof as may be found in any suit brought for the recovery of said taxes.

The said lien may be foreclosed in a suit or suits brought by the directors on behalf of the district or by the trustee or his successor as may be provided by the directors in the name of the district and the procedure with respect to such suits shall be as prescribed for ordinary civil foreclosure suits. The provisions of Chapter 506, Acts of the Forty-fifth Legislature, Regular Session (Article 7345D, Vernon's Texas Statutes), as amended, shall not be applicable to such suits.

Default in payment of installments of taxes

Sec. 15. Default in the payment of any installment of any taxes levied for the payment of bonds issued hereunder for sixty (60) days after the same shall have become due and payable as provided by the directors shall at the option of the district or the trustee, immediately mature the remaining installments and cause the entire amount of such taxes to immediately become due and payable and the trustee shall proceed with suit for the collection thereof and for the foreclosure of the lien securing the same, and upon such default there shall immediately accrue a penalty in the amount of ten (10) per cent of the unpaid amount of the taxes and upon the institution of any such suit, there shall immediately be due and payable an attorney's fee in the amount of ten (10) per cent of the unpaid amount of the taxes, which penalty and attorney's fee shall be recovered in said suit and shall constitute an addition to said taxes and be secured by the said tax lien.

Discharge of taxes and lien

Sec. 16. Upon the final payment of the taxes levied for dissolution bonds upon the taxable property of any owner as provided herein, a certificate shall be issued by either the tax collector or the trustee certifying that such taxes have been fully satisfied and that the same are released and upon the execution and acknowledgment of said certificate and placing the same of record in the deed records of the county in which the property is located, the same shall be full and conclusive evidence of the discharge of such taxes and lien.

District deemed dissolved

Sec. 17. Upon the issuance and sale or delivery of said bonds as hereinabove provided and upon the appointment and qualification of said trustee, the secretary of the district shall deposit all available existing records of the district in the office of the county clerk of the county (or one of the counties) in which the district is located and the district shall immediately be deemed dissolved for all purposes except that the taxes so levied against said taxable property may be enforced in the name of the district and for and in behalf of the bondholders by the trustee and his successors as hereinabove provided.

The surviving board of directors until said dissolution bonds are paid off and discharged may meet from time to time and delegate such of their powers and give such instructions to the trustee or his successors as they may see fit and circumstances warrant, and after the payment of all said dissolution bonds, interest and costs of collection, the said district shall stand and be dissolved.

Act cumulative

Sec. 18. This Act shall be cumulative of all other provisions of law providing for the dissolution of water control and improvement districts organized under the provisions of Section 59-a of Article XVI of the Constitution of Texas, and shall be applicable only to such districts as may adopt the provisions hereof as provided in Sections 1 and 2 hereof.

Pending litigation

Sec. 19. No water control and improvement district shall avail itself of the provisions of this law until all litigation pending at the time this law becomes effective has been disposed of by final judgment. Acts 1943, 48th Leg., p. 555, ch. 328.

Approved May 14, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 20 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing for the dissolution of water control and improvement districts whose directors adopt the provisions hereof; providing for an election to determine the question of dissolution and the issuance of dissolution bonds to pay the costs of dissolution and of collecting taxes as well as to pay or refund the remaining valid enforceable indebtedness of such districts; providing the maximum amount of bonds to be issued; authorizing the sale of such bonds, or exchange thereof for the valid enforceable indebtedness of the district, or in payment of services ren-

dered or to be rendered; authorizing cancellation of prior unsold and unissued bonds and the making or assuming of contracts beneficial to the district; providing for the levying and collecting of a tax to pay said dissolution bonds; providing for the appointment of trustee to assist in liquidating the said dissolution bonds and affairs of the district; providing for the imposition of penalties and attorney's fees if suit is filed for collection of taxes; providing for the disposition of the records of such dissolved district; providing the Act shall be cumulative; providing no water control and improvement district shall avail itself of the provisions of this law until all litigation pending at the time this law becomes effective has been disposed of by final judgment; and declaring an emergency. Acts 1943, 48th Leg., p. 555, ch. 328.

Arts. 7880—147v, 7880—147v(1)

United States authorized to acquire land for flood control, see arts. 5244a, 5244a—1, 5244a—2.

CHAPTER FOUR—FRESH WATER SUPPLY DISTRICTS**3. POWERS OF DISTRICT**

Art.

7930—4a. Districts in counties over 500,000; contracts; advertisement; emergency requisitions [New].

3. POWERS OF DISTRICT

Art. 7930—4a. Districts in counties over 500,000; contracts; advertisement; emergency requisitions

Fresh Water Supply Districts heretofore or hereafter created under the provisions of Chapter 4, of Title 128, Revised Civil Statutes of Texas, 1925, as amended,¹ and located wholly within a county having population in excess of five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census may enter into all necessary contracts for construction and repairs authorized by law. Where the amount exceeds One Thousand (\$1,000.00) Dollars, competitive bids on uniform written specifications shall be asked after advertisement one time in a newspaper of general circulation in the county or in

said District for at least five (5) days prior to opening bids. Contracts shall be awarded to the lowest and best bidder, shall be reduced to writing, and a surety bond shall be required in a sum equal to the amount of the contract to insure the faithful performance of the contract and the payment for labor and materials.

Where the amount is One Thousand (\$1,000.00) Dollars or less, and more than One Hundred Fifty (\$150.00) Dollars, advertisement may be received, and contracts awarded in like manner, without advertisement or the requirement for bond. Purchases may be made or contracts entered into on emergency requisitions where the amount of such purchase does not exceed One Hundred Fifty (\$150.00) Dollars. Acts 1943, 48th Leg. p. 413, ch. 280, § 4.

¹ Articles 7881-7959a.

Approved and effective May 8, 1943.

Section 5 of the Act of 1943 read as follows: "The provisions of this Act shall be and remain in full force and effect until the cessation of hostilities of the present war."

Section 6 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

II. LEVEES

CHAPTER FIVE—STATE RECLAMATION ENGINEER

Arts. 7960-7971.

Office of state Reclamation Engineer abolished, and functions, officers, employees, records, etc., transferred to the General Land Office, see art. 5421h-1.

IV. CONSERVATION AND RECLAMATION

CHAPTER EIGHT—CREATION OF DISTRICTS

Art.

8197e-1. State agencies created to carry out purposes of Conservation Amendment regulated; electric facilities [New].

Art. 8194. Creation

Lands acquired by State under convention between United States and Mexico, including in conservation districts, see article 5415b.

Art. 8197e-1. State agencies created to carry out purposes of Conservation Amendment regulated; electric facilities

Section 1. The term "agency" as used herein means an agency of the State heretofore or hereafter created by an Act of the Legislature to carry out the purposes of the Conservation Amendment to the Constitution of Texas (Section 59, Article XVI), authorized by the Act creating such agency to generate and sell electric power or energy; and said term shall not include a corporation organized under the "Electric Cooperative Corporation Act" (Acts 1937, Forty-fifth Legislature, Chapter 86¹); neither shall it include or apply to any agency or political subdivision heretofore or hereafter engaged in the business of impounding, distributing or selling water for domestic, commercial and other beneficial purposes, and at least fifty (50) per cent of whose revenues is derived from the sale of water for domestic, commercial and other beneficial purposes.

¹ Article 1528b.

Commissions in connection with acquisition or sale of property for electric power purposes

Sec. 2. Except as provided in Section 5 of this Act, no agency shall pay or contract to pay, directly or indirectly, any commission or fee to any person whomsoever in connection with the purchase, lease, sale or acquisition in any manner whatsoever of any property, real, personal or mixed, then existing and being used for the purpose of generating, transmitting and distributing electric power or energy; provided, however, nothing in this Section shall be construed to prohibit such agency from paying any fee or commission, legal under present law, for services rendered prior to the effective date of this Act; and provided further that nothing herein shall be construed to prohibit the payment by the agency to its officers, attorneys and employees employed to carry on the business affairs of such agency the compensation determined by the Board of Directors in accordance with the Act creating such agency.

Electric facilities acquired within cities; payments in lieu of taxes

Sec. 3. (a) After the effective date of this Act, no agency shall acquire by purchase, lease or in any other manner whatsoever the electric facilities within any incorporated city except on condition that so long as it shall own said facilities it shall annually on or before the 31st day of January make a payment in lieu of taxes to the State of Texas and to the county, city and such taxing districts within which such property is situated; such payment in lieu of taxes to be in the amount which would be realized by levying a tax at the rate effective at the time of the acquisition of such property and based on the average of the assessed value of such property for the then current tax year and the four (4) preceding tax years.

(b) Any city or town in which the electric facilities serving such city or town are acquired by an agency after the effective date of this Act shall for a period of twelve (12) months after the acquisition by the agency of such electric facilities have the right to acquire from such agency the electric facilities within and serving such city or town by paying to the agency the cost to the agency of the property to be acquired by the city or town, less depreciation and plus the cost to the agency of all additions, extensions, and betterments made to such facilities by the agency; provided that this Section shall not be construed to repeal any law under which cities and towns may acquire such electric facilities.

(c) It shall be unlawful for any agency to fix, by contract or otherwise, the resale price of any commodity or service sold by such agency to any municipality or electric cooperative corporation or association organized under the Acts, 1937, Forty-Fifth Legislature, Chapter 186.¹

¹ Probably should read "Chapter 86."

Loans

Sec. 4. No agency shall make any loan of money to another agency as herein defined for any purpose whatsoever.

Employment of attorney

Sec. 5. After the effective date of this Act no agency shall employ an attorney to perform any legal service in acquiring for the agency existing facilities for generating, transmitting or distributing electric power or energy except for a sum of money to be agreed upon at the time of such employment.

Audits

Sec. 6. (a) Each agency shall cause to be made and completed within ninety (90) days after the end of its fiscal year an audit of the books of account and financial records of the agency for such year, such audit to be made by an independent Certified Public Accountant or firm of Certified Public Accountants chosen by the Board of the agency and approved by the State Auditor. The fiscal year for each agency shall be fixed by the Board of Directors of said agency. Copies of a written report of such audit, certified to by said accountant or accountants, shall be placed and kept on file with the Board of Water Engineers, the State Auditor, the Treasurer of the State of Texas, and at the principal office of the agency, and shall be open to public inspection at all reasonable times. The requirement in this subsection for such independent audit shall not apply to any agency whose annual gross income from operations is less than Five Thousand Dollars (\$5,000), nor to any agency which under laws applicable to it is subject to an annual audit by the State Auditor.

(b) It shall be the duty of every agency, employee, attorney, director or officer of any such agency, to make available to the State Auditor and those working under his direction, all the minutes, books, records, accounts, documents, and contracts pertaining to the business of such agency at reasonable times and for such inspection as the State Auditor may desire to make.

Flood Control and Conservation Fund

Sec. 7. At the next regular meeting of the Board of Directors, after the filing of the annual audit as provided above, the Board of Directors of each agency shall set aside a sum equivalent to ten (10) per cent of the balance remaining from the revenues for the preceding fiscal year after deducting from such revenues sufficient moneys to meet the following:

- (1) Pay all fixed charges;
- (2) Pay all operating expenses;
- (3) A reasonable sum to be fixed by its board of directors, not less than the amount prescribed in the Indenture or Indentures securing the agency's indebtedness, to be placed in a replacement and maintenance fund to be used by the agency for replacements and maintenance of the property of the agency;
- (4) A reasonable sum to be fixed by its board of directors to cover depreciation on the property of the agency;
- (5) Such other sums as are required by the Indenture or Indentures securing its indebtedness.

Which sum so set aside shall be placed in a special fund hereby created for each such agency to be known as the "Flood Control and Conservation Fund," and disbursements therefrom shall be made by the agency under the direction of the board of directors of each such agency and shall be used only for the building or operation of levees or other facilities for flood control, or for the purpose of reclaiming and conserving the soil and forests, or storage of water for domestic, municipal and agricultural purposes, or for any two (2) or more of said purposes.

Operation of electric facilities by or in conjunction with private or public corporation

Sec. 8. No agency shall make any contract or agreement under the terms of which its electric facilities may be operated by or in conjunction with either a private corporation (whose principal business is the generation, transmission, distribution or sale of electric power or en-

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

ergy), unless such private corporation is doing business in Texas in such a manner as to be subject to the jurisdiction of the Courts of Texas, or a public corporation or public agency (whose principal business is the generation, transmission, distribution or sale of electric power or energy) unless such public corporation or public agency is created under the laws of the State of Texas; provided, however, nothing in this Section shall prevent the enforcement of the rights of any bondholder or trustee under the terms of any Indenture or Indentures of the agency given to secure the payment of any bonds heretofore issued or hereafter issued by the agency; and provided further that this Section shall apply only to properties and facilities of any agency, as defined in this Act, as shall have been completed by the date this Act becomes effective, and to the power and energy generated by such properties and facilities.

Violations; quo warranto proceedings

Sec. 9. Whenever it shall appear that any Section, Subsection or provision of any Section or Subsection of this Act has been violated by any agent, employee, director, trustee, receiver or officer of any such agency, it shall be the duty of the Attorney General of the State of Texas, as soon as such violation has reached his attention, to notify in writing each member of the Board of Directors of such agency, and unless the Board of Directors shall within thirty (30) days thereafter have taken such steps within its power as are reasonably necessary to correct such violation, then it shall be the duty of the Attorney General to bring quo warranto proceedings to enforce the removal of such offending officer or employee; and the District Court in the county where the principal office of such agency is located, or in Travis County, Texas, shall have jurisdiction and venue in any such quo warranto proceedings.

Enforcement of act

Sec. 10. The Attorney General is authorized and it shall be his duty to enforce each and every provision of this Act, and for that purpose he is authorized and directed to bring appropriate suits to enforce the provisions of this Act.

Partial invalidity

Sec. 11. If any section, subsection, provision, paragraph or sentence of this Act shall be declared to be invalid for any cause, the remaining sections, subsections, provisions, paragraphs and sentences shall not be affected thereby; and it is declared that it is the intention of this Legislature to pass each and every section, subsection, provision, paragraph and sentence, irrespective of the validity or invalidity of the remaining sections, subsections, provisions, paragraphs and sentences.

Act cumulative

Sec. 12. This Act shall be cumulative of all other laws on the subject matter.

Repeal

Sec. 13. To the extent and only to the extent that they are in conflict herewith, all laws and parts of laws are hereby repealed. Acts 1943, 48th Leg., p. 641, ch. 366.

Section 14 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Approved May 22, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Title of Act:

An Act to regulate every agency of the State heretofore or hereafter created by

the Legislature to carry out the purposes of the Conservation Amendment to the Constitution of Texas, being Section 59, Article XVI; providing penalties; providing for a separability clause; providing that this Act shall be cumulative; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1943, 48th Leg., p. 641, ch. 366.

WATER SUPPLY AND CONTROL

The following laws, though passed as general laws, are in fact special acts relating to particular conservation and reclamation districts or authorities:

Nueces River Conservation and Reclamation District

"Sec. 6. The powers, rights, privileges and functions of the Nueces River Conservation and Reclamation District shall be exercised by a board of twenty-one (21) directors, all of whom shall be residents of and freehold property taxpayers in the State of Texas. Said directors shall be designated by the State Board of Water Engineers, subject to approval of the Governor, and shall hold office for a term of six (6) years, or until their successors have been appointed and qualified. Provided, that the present Board of Directors appointed under the provisions of Section 6 of Chapter 427, Acts of the First Called Session of the Forty-fourth Legislature, as amended by Section 2 of Chapter 20, Acts of the Second Called Session of the Forty-fifth Legislature, whose terms expire: seven (7) on February 1, 1945; seven (7) on February 1, 1947, and seven (7) on February 1, 1949, shall continue to serve until the expiration of their respective terms, or until their successors have been appointed and qualified. Hereafter, the State Board of Water Engineers, subject to approval of the Governor, shall each biennium, as the terms of the present Board of Directors expire, designate seven (7) persons to serve on said Board of Directors, each of whom shall hold office for a term of six (6) years, or until their successors have been appointed and qualified. Upon notification by the State Board of Water Engineers of their appointment as members of the Board of Directors for said District, and not more than sixty (60) days thereafter, each of said Directors shall take and subscribe to an oath of office, similar in character to oaths administered to County Commissioners and shall file same with the State Board of Water Engineers. All vacancies occurring in the Board of Directors shall be filled by a designation of the State Board of Water Engineers, subject to approval of the Governor, for the unexpired term. Seven (7) members shall constitute a quorum to transact business. No more than two (2) of said Directors shall be appointed who reside in the same county at the time of their appointment. The Board shall hold its meetings at its office and principal place of business as determined and established by said Board, unless it directs otherwise for specific occasions, and it shall meet then when called by order of the President, Vice President, or a majority of its members; provided, however, that the Board shall fix, by order entered in the minutes of its proceedings, a specified time for its regular meetings."

As amended Acts 1943, 48th Leg., p. 701, ch. 390, § 1.

Effective May 18, 1943.

"Sec. 7. The Board of Directors shall be authorized and directed to make surveys and engineering investigations for the information of the District, and to determine plans necessary to the accomplishment of the purposes for which the District is created, as expressed in the provisions of this Act, and to do all things useful and helpful in carrying out said plans and accomplishing such purposes of said District; and, to this end, said Board of Directors may employ engineers, attorneys, and all other technical and nontechnical assistants or employees, and fix and provide the amount and manner of their compensation, and provide for any other expenditure found essential or useful in the maintenance, operation, and administration of said District. Provided, that the General Manager, the Treasurer, and all other officers, agents, and employees of the District who shall be charged with the collection, custody or payment of any funds of the District shall give bond conditioned upon the faithful performance of their duties and an accounting for all funds and property of the District coming into their hands, each of which bonds shall be in form and amount and with a surety approved by the Board of Directors, and the premiums on such bonds shall be paid by the District and charged as an operating expense. Any Director may perform any service required by the Board, and his compensation therefor be fixed by the Board, but in any such case such Director shall not receive the per diem and other compensation as a Director at the same time. Each Director of said District shall receive a per diem of Ten Dollars (\$10) per day for each day spent in attending meetings of said Board of Directors, together with Five (5) Cents per mile traveled in going to and from such Board meetings as traveling expenses. It is provided, however, that no Director shall be paid per diem in excess of fifty (50) days in any one calendar year." As amended Acts 1943, 48th Leg., p. 701, ch. 390, § 2.

Effective May 18, 1943.

San-Jacinto River Conservation and Reclamation District

"Sec. 6. The management and control of all the affairs of said District shall be vested in, and the powers, rights, privileges, and functions of the District shall be exercised by a Board of Directors consisting of six (6) members, all of whom shall be freehold property taxpayers and legal voters of the State of Texas. Members of such Board of Directors shall be appointed by the State Board of Water Engineers for terms of six (6) years. Pro-

vided, the present Board of six (6) directors of said District, appointed by the State Board of Water Engineers under authority of House Bill No. 1094, Chapter 613, Acts of the Regular Session of the Forty-seventh Legislature, amending Section 6 of Chapter 426, Acts of the Regular Session of the Forty-fifth Legislature, as amended by House Bill No. 823, Chapter 480, Acts of the Regular Session of the Forty-seventh Legislature, for terms of two (2), four (4), and six (6) years, shall continue to serve as such until the expiration of the respective terms for which they were appointed. Upon the expiration of the terms for which the present members of the Board of Directors were appointed, the successors of each and all of them shall be appointed by the State Board of Water Engineers for a term of six (6) years.

"The Directors shall hold office after their appointment and qualification until their successors shall be appointed and qualified. Should any vacancy occur in the Board of Directors, the same shall be filled in like manner by the State Board of Water Engineers for the unexpired term. The Directors appointed shall, within thirty (30) days after their appointment, qualify by taking the official oath required of County Commissioners, and shall execute bond in the sum of Five Thousand Dollars (\$5,000) payable to the District, the sufficiency of which bond shall be determined by the State Board of Water Engineers, which bonds after being recorded in the official bond records of the county in which the District maintains its office shall be deposited with the depository selected and approved for the deposit of the funds of the District.

"The Board of Directors shall organize by electing one of its members President, one Vice-President, one Secretary, and one Treasurer. Four (4) members, including the presiding officer, shall constitute a quorum to transact business. The President shall preside at all meetings of the Board and shall be the chief executive officer of the District. The Vice-President shall act as President in case of the absence or disability of the President. The Secretary shall act as Secretary of the Board and shall be charged with the duty of keeping a record of all proceedings and all orders of the Board. The Treasurer shall receive and receipt for all moneys received by the District and shall keep books and records of all moneys received and expended. In case of the absence or inability of the Secretary to act, a Secretary pro tem shall be selected by the Directors.

"The domicile of the District shall be in the City of Conroe, in the County of Montgomery, Texas, where the District shall maintain its principal office. The Board of Directors shall have authority to fix the time, place and number of meetings of such Board by proper resolutions, regulations and bylaws passed by said Board.

Said Board shall cause to be kept complete and accurate accounts conforming to approved methods of bookkeeping. Said accounts and all contracts, documents, and records of the District shall be kept at said principal office, and same shall be open to public inspection at all reasonable times." As amended, Acts 1943, 48th Leg., p. 653, ch. 371, § 1, approved May 22, 1943, effective 90 days after May 11, 1943, date of adjournment.

Upper Colorado River Authority Act

"Section 17. For a period of twenty (20) years, and commencing with the fiscal year beginning September 1, 1944, there is hereby donated and granted by the State of Texas to the Upper Colorado River Authority herein created, all of the net amounts of the annual current state ad valorem taxes that may be collected from the property and from persons in Coke and Tom Green Counties, Texas, which otherwise would go into the General Fund of the State of Texas, including the rolling stock belonging to railroad companies, which shall be ascertained and apportioned as now provided by law.

"Provided, however, that in no event shall such amounts hereby granted ever exceed in any one county the sum that would be produced for any current year by the levy of the then current state ad valorem taxes for general revenue purposes, or the valuation of said county as shown by Comptroller's records for the year 1934, and all sums collected in excess of such amount shall continue to go into the General Revenue Fund of this State." As amended Acts 1943, 48th Leg., p. 270, ch. 169, § 1.

Effective 90 days after May 11, 1943, date of adjournment.

Section 3 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

"Section 17A. None of the taxes hereby donated and granted to the said Upper Colorado River Authority, herein created, shall be made available to said authority as herein provided for unless and until said Authority shall have first received from the United States of America a grant and/or a loan and/or an advancement of sufficient size to reasonably insure the completion of such coordinated and completed system of improvement and control of the Colorado River and its tributaries thereto and water thereof as may be approved by the Board of Water Engineers of the State of Texas, such approval to be certified to the Comptroller of the state by said Board of Water Engineers; provided, however, that a legally binding commitment from the United States of America for such grant and/or loan and/or advancement shall be construed as the receiving thereof; such grant and/or loan and/or advancement to be used for the purposes for which said Authority was created, and in accordance with the provisions of this Act,

and the taxes hereby donated and granted shall be used only to repay the principal and/or interest due the said United States of America by reason of any loan and/or advancement obtained in accordance with the provisions of this Act; and in the event no grant and/or loan and/or advancement in the sum of at least Two Million (\$2,000,000.00) Dollars has been received by said Authority, as herein contemplated, by January 1, 1948, then the grant and/or donation of said taxes to said Authority from the State of Texas herein provided for shall be null and void; provided, however, that in the event the grant and/or loan and/or advancement from the United States of America is not received by January 1, 1948, all of such moneys, together with any accrued interest thereon, shall be by the State Treasurer placed in the

General Revenue Fund. If the grant and/or loan and/or advancement herein referred to shall be received by said Authority from any department of government set up as an agency by the United States of America, it shall be construed as having been received from the United States of America within the meaning of this Act. It is expressly provided, however, that the fact that any provision of this section may not have been complied with, within the time or in the manner herein required, shall not at any time invalidate Sub-section R, Section 2, but said subdivision shall remain in full force and effect notwithstanding." As amended Acts 1943, 48th Leg., p. 270, ch. 270, § 2.

Effective 90 days after May 11, 1943, date of adjournment.

TITLE 130—WORKMEN'S COMPENSATION LAW

Art. 8306. Damages and compensation for personal injuries; defenses

Texas Defense Guard, Workmen's Compensation for members of, see article 5391b.

Art. 8309, sec. 1. Definitions and general provisions; words and phrases defined

The following words and phrases as used in this Act shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

"Employer" shall mean any person, firm, partnership, association of persons or corporations or their legal representatives that makes contracts of hire.

"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; 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; and provided further that any person, who may be performing or doing work or service that may be otherwise legally performed or done, shall be deemed an employee as herein defined and shall be entitled to receive compensation under the terms and provisions of this Act despite the fact that such person may not have secured a license, permit or certificate to perform or do such work or service as may be required by any Statute or municipal ordinance, or despite the fact that such person may have been performing or doing such work or service in violation of any wage law, hour law or Sunday law. Provided that this Section shall not be construed to relieve from fine or imprisonment any person, firm or corporation employing or performing any work or services prohibited by any Statute of this State or any valid municipal ordinance.

The words "legal beneficiaries" as used in this Act shall mean the relatives named in Section 8a, Part 1, of this Act.¹

"Association" shall mean the "Texas Employers' Insurance Association" or other insurance company authorized under this Act to insure the payment of compensation to injured employees or to the beneficiaries of deceased employees.

"Subscriber" shall mean any employer who has become a member of the association by paying the required premium; provided that the association holds a license issued by the Commissioner of Insurance, as provided for in Section 12, Part 3, of this Act.²

"Average weekly wages" shall mean:

1. If the injured employee shall have worked in the employment in which he was working at the time of the injury, whether for the same

employer or not, substantially the whole of the year immediately preceding the injury, his average annual wages shall consist of three hundred times the average daily wage or salary which he shall have earned in such employment during the days when so employed.

2. If the injured employee shall not have worked in such employment during substantially the whole of the year, his average annual wages shall consist of three hundred times the average daily wage or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or in a similar employment in the same or neighboring place, shall have earned in such employment during the days when so employed.

3. When by reason of the shortness of the time of the employment of the employee, or other employees engaged in the same class of work in the manner and for the length of time specified in the above Subsections 1 and 2, or other good and sufficient reasons it is impracticable to compute the average weekly wages as above defined, it shall be computed by the Board in any manner which may seem just and fair to both parties.

4. Said wages shall include the market value of board, lodging, laundry, fuel, and other advantage which can be estimated in money, which the employee receives from the employer as a part of his remuneration. Any sums, however, which the employer has paid to the employee to cover any special expenses entailed on him by the act of his employment shall not be included.

5. The average weekly wages of an employee shall be one-fifty-second part of the average annual wages.

The terms "injury" or "personal injury" shall be construed to mean damage or harm to the physical structure of the body and such diseases or infection as naturally result therefrom.

The term "injury sustained in the course of employment," as used in this Act, shall not include:

1. An injury caused by the act of God, unless the employee is at the time engaged in the performance of duties that subject him to a greater hazard from the act of God responsible for the injury than ordinarily applies to the general public.

2. An injury caused by an act of a third person intended to injure the employee because of reasons personal to him and not directed against him as an employee, or because of his employment.

3. An injury received while in a state of intoxication.

4. An injury caused by the employee's willful intention and attempt to injure himself, or to unlawfully injure some other person, but shall include all other injuries of every kind and character having to do with and originating in the work, business, trade or profession of the employer received by an employee while engaged in or about the furtherance of the affairs or business of his employer whether upon the employer's premises or elsewhere.

Any reference to any 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. The word "board" whenever used in this Act shall be held to mean the Industrial Accident Board created by this Act. Whenever in this Act the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included. As amended Acts 1943, 48th Leg., p. 279, ch. 176, § 1.

¹ Article 8306.

² Article 8308.

Approved and effective April 27, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

THE PENAL CODE

TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY, AND REVENUE

CHAPTER TWO.—MISAPPLICATION OF PUBLIC MONEY

Art. 107a. Information by Clerk of Court to State Comptroller as to estate for inheritance taxes

Sec. 9. Within ten (10) days after an inventory and appraisalment and list of claims shall have been filed and approved by the County or Probate Court in the estate of any decedent, it shall be the duty of the executor or administrator of such estate, to file with the Clerk of said Court, a statement setting forth the name and address and relation to the decedent of each beneficiary who shall receive any portion of said estate, whether under a will or by the law of descent and distribution, and the approximate value of each such beneficiary's share.

Within twenty (20) days after such inventory and appraisalment and list of claims shall have been filed and approved by the County or Probate Court, in the estate of any decedent, it shall be the duty of the Clerk of said Court to furnish the Comptroller of Public Accounts a written report setting forth the name of the decedent, his residence at the time of his death, the name and address of the executor, administrator or trustee, the name and address and relation to the decedent of each beneficiary who shall receive any portion of said decedent's estate, whether under a will or by the law of descent and distribution, and the approximate value of each such beneficiary's share; and said Clerk shall also give to the Comptroller of Public Accounts any other information which that official may call for in reference to any such estate, such information shall be furnished within ten (10) days after being called for; the Clerk shall be entitled to a fee of One Dollar (\$1) for making the reports herein required on each such estate, which shall be taxed against said estate as Court costs, and be accounted for as fees of office; such reports and information being for the purpose of enabling the Comptroller of Public Accounts to determine whether an inheritance tax is due and, if so, the amount thereof.

If any executor, administrator or County or Probate Clerk shall fail or refuse to comply with any of the provisions or requirements of this Section, he shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Fifty Dollars (\$50) nor more than Two Hundred and Fifty Dollars (\$250). As amended Acts 1943, 48th Leg., p. 374, ch. 250, § 1.

Approved May 6, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Sections 1-4, 6 of the Act of 1939, being civil provisions are published as arts. 7177, 7125, 7130, 7131 and 7135.

Emergency section. See note under article 7177.

CHAPTER FIVE—PUBLIC LANDS

Art.

142a. Lists of public lands for sale or lease; reproducing, preparing, selling or furnishing [New].

Art. 142a. Lists of public lands for sale or lease; reproducing, preparing, selling or furnishing

Section 1. It shall be unlawful for any person, firm, corporation or association of persons, to reproduce, print, or prepare or to sell or furnish any printed, multigraphed or mimeographed list or lists prepared by or under the direction of the Commissioner of the General Land Office of the State of Texas, offering for sale or lease any State or Public School Land; provided that nothing herein shall prohibit the Commissioner of the General Land Office or the School Land Board from advertising in newspapers or otherwise as is provided by law; and provided further; that newspapers and periodicals may publish such lists in their regular issues as news items.

Sec. 2. Any person, firm, corporation or association of persons violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by fine of not more than One Thousand (\$1,000.00) Dollars. The conviction of an agent or employee shall not bar conviction of the principal also. Acts 1943, 48th Leg., p. 356, ch. 235.

Approved and effective May 6, 1943.

Section 3 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage

Title of Act:

An Act providing that it is unlawful for any person, firm, corporation or association of persons, to reproduce, print or prepare or to sell or furnish any printed, multigraphed or mimeographed list or lists prepared by or under the direction of the Commissioner of the General Land Of-

fice of the State of Texas, offering for sale or lease any State or Public School Land, and providing a penalty therefor; provided nothing therein shall prohibit the Commissioner of the General Land Office or the School Land Board from advertising in newspapers or otherwise as is provided by law; and providing further that newspapers and periodicals may publish such lists in their regular issues as news items; and declaring an emergency. Acts 1943, 48th Leg., p. 356, ch. 235.

CHAPTER SIX.—PERSONAL PROPERTY OF THE STATE

Art.

147d. Postage meters of state, imprint plates; private use prohibited [New].

Art. 147d. Postage meters of state; imprint plates; private use prohibited

Section 1. Each State Department, Board, Commission, or State Educational Institution which has installed a postage meter machine must place an imprint plate on such machine, showing: first, that the mail carried by such postage is official State of Texas mail; and second, that there is a penalty for the unlawful use of such postage meters for private purposes.

Sec. 2. Whoever shall make use of such postage meter machines to avoid the payment of postage or registry fee on his private letter, packet or package or other matter in the mail, shall be fined not more than Three Hundred (\$300.00) Dollars.

Sec. 3. The installation and cost of such imprint plates shall be paid from appropriations for postage and contingent expenses made to the various State Departments, Boards, Commissions, or State Educational Institutions. Acts 1943, 48th Leg., p. 231, ch. 147.

Approved and effective April 19, 1943.

Section 4 of Act of 1943 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 placing of imprint plates on all state owned postage

meters; providing certain information to be placed on the imprint plates; providing a fine for the use of such machine for private purposes; providing for the payment of cost and installation of such plates; and declaring an emergency. Acts 1943, 48th Leg., p. 231, ch. 147.

TITLE 6—OFFENSES AFFECTING THE RIGHT OF SUFFRAGE

CHAPTER FOUR—OFFENSES BY OFFICERS OF ELECTION

Art. 227. Making false canvass; court may open ballot boxes

Any Judge or Clerk of an election, chairman or member of a party executive committee, or officer of a primary, special or general election, who willfully makes any false canvass of the votes cast at such election, or a false statement of the result of a canvass of the ballots cast shall be confined in the penitentiary not less than two (2) nor more than five (5) years. In all such cases, the Court shall have authority to unseal and open the ballot boxes, and the Court may count, or cause to be counted under its direction, the ballots cast in any election; however, in so doing the Court shall exercise due diligence to preserve the secrecy of the ballots, and upon completion of such count the said ballot boxes with their original contents shall be resealed and redelivered to the County Clerk who shall keep the same until ordered by the Court to destroy the same. As amended Acts 1943, 48th Leg., p. 438, ch. 296, § 1.

Approved and effective May 10, 1943.

Section 2 of the amendatory Act of 1943 declared an emergency and provided

that the Act should take effect from and after its passage.

TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

CHAPTER FOUR.—ARREST AND CUSTODY OF PRISONERS

Officers violating act relating to trial of misdemeanor cases in justice court in precinct other than that of defendant's residence, see Vernon's Rev.Code Crim.Proc. article 60a.

CHAPTER SEVEN—FAILURE OF DUTY

Art. 419a. Repealed. Acts 1943, 48th Leg., p. 400, ch. 270, § 5. Eff. May 8, 1943

Art. 422a. Repealed. Acts 1943, 48th Leg., p. 429, ch. 293, § 1. Eff. 90 days after May 11, 1943, date of adjournment

Punishment for refusal to permit examination of books and papers by State Auditor, see article 422b.

Art. 422b. Refusal to permit examination by State Auditor, of books, accounts or papers; punishment

Any officer or person employed by the State of Texas or any governmental unit of the state who shall refuse to permit the examination or access to the books, accounts, reports, vouchers, papers, documents or cash drawer or cash of his office, department, institution, board, or bureau by the State Auditor, or who shall in any way interfere with such examination, or who shall refuse to make any report required by this Act, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail for not less than one (1) month nor more than twelve (12) months, or by both such fine and imprisonment. Acts 1943, 48th Leg., p. 429, ch. 293, § 14.

¹ This article and Civ.St. articles 4366, 4413a—8 to 4413a—23.

Approved May 10, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Sections 1-13, 15, 16, 18-20 of the Act of 1943 are published as Civ.St. arts. 4413a—8 to 4413a—23. Section 17 amends Civ.St. art. 4366.

TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND CHASTITY

CHAPTER SEVEN—MISCELLANEOUS OFFENSES

Art. 524. 507, 362, 342 Sodomy

Whoever has carnal copulation with a beast, or in an opening of the body, except sexual parts, with another human being, or whoever shall use his mouth on the sexual parts of another human being for the purpose of having carnal copulation, or who shall voluntarily permit the use of his own sexual parts in a lewd or lascivious manner by any minor, shall be guilty of sodomy, and upon conviction thereof shall be deemed guilty of a felony, and shall be confined in the penitentiary not less than two (2) nor more than fifteen (15) years. As amended Acts 1943, 48th Leg., p. 194, ch. 112, § 1.

Approved April 8, 1943.
Effective 90 days after May 11, 1943
date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 527. 509 Immoral publications, motion pictures, penny arcade machine pictures, and indecent objects

Whoever shall within this State engage in the business of editing, publishing or disseminating any newspaper, pamphlet, magazine, or any printed paper devoted mainly to the publications of scandals, whoring, lechery, assignations, intrigues between men and women and immoral conduct of persons, or shall knowingly have in his possession for sale or shall keep for sale or distribute or in any way assist in the sale or shall give away such newspaper, pamphlet, magazine or printed matter in this State, or whoever shall within this State engage in the showing and exhibition of lewd and lascivious motion pictures, or of lewd and lascivious pictures in penny arcade machines, or of indecent objects or images, or shall knowingly have in his possession for sale, or shall keep for sale or distribute or in any way assist in the sale or give away any such lewd and lascivious motion pictures, penny arcade pictures, or indecent objects or images, shall upon conviction be deemed guilty of a misdemeanor and be punished by confinement in the County jail for not more than six (6) months or fined not more than One Thousand (\$1,000.00) Dollars, or by both such fine and imprisonment. As amended Acts 1943, 48th Leg., p. 38, ch. 35, § 1.

Approved and effective March 1, 1943.
Section 2 of the amendatory Act of 1943 repealed all conflicting laws and parts of laws insofar as they conflict with this

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

TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

CHAPTER ONE.—BANKING

Arts. 536-559a. Repealed. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11.

Similar provisions in Texas Banking Code of 1943, see Vernon's Rev.Civ.St. art. 342-101 et seq.

Art. 560a. Repealed. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11

Directors and officers and loans and investments under Texas Banking Code of 1943, see Vernon's Rev.Civ.St. art. 342-401 et seq., and art. 342-501 et seq.

Art. 567a. Repealed. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11

Similar provisions in Texas Banking Code of 1943, see Vernon's Rev.Civ.St. art. 342-907.

CHAPTER FOUR—VAGRANCY

Art. 607a. Punishment for violating Sections 15-20 of Article 607

Art. 607. 634-635-636 "Vagrancy"; "prostitution" defined for purposes of article; accomplice's testimony

(15) All persons who invite, entice, or solicit any male person, or direct, take or transport, or offer or agree to take or transport, or aid or assist in transporting, any male person to visit any bawdy house or disorderly house or other place, for the purpose of unlawful sexual intercourse, knowing the purpose of such person in going to such house; or who meet any female at such bawdy house or disorderly house for the purpose of unlawful sexual intercourse.

(16) All persons who engage in prostitution, lewdness, or assignation.

(17) All prostitutes who solicit, induce, entice, or procure any male person to visit any bawdy house or disorderly house or other place with her for the purpose of unlawful sexual intercourse.

(18) All persons who reside in, enter or remain in any house, place, building or other structure, or who enter or remain in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation.

(19) All persons who aid, abet, or participate in the doing of any of the acts herein prohibited.

(20) The term "prostitution" as used in this Act shall be construed to include the giving or receiving of the body for sexual intercourse for hire, and shall also be construed to include the giving or receiving of the body for indiscriminate sexual intercourse without hire. The term "lewdness" shall be construed to include any indecent or obscene act. The term "assignation" shall be construed to include the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement.

(21) For any offense enumerated in Sections 15, 16, 17, 18 or 19 of this Article, a conviction may be had upon the unsupported evidence of an ac-

complice or participant in the unlawful act. Added Acts 1943, 48th Leg., p. 253, ch. 154, § 1.

Approved and effective April 20, 1943.

Section 3 of the amendatory Act of 1943 repealed all conflicting laws and parts of laws.

Section 4 read as follows: "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 provision, if any."

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

Art. 607a. Punishment for violating Sections 15-20 of Article 607

Any person coming within the definitions and provisions of the foregoing Act¹ shall be punished as is now provided in Article 608 of the Penal Code of Texas of 1925. Acts 1943, 48th Leg., p. 253, ch. 154, § 2.

¹ Article 607.

CHAPTER FIVE.—PRIZE FIGHTING, ROPING CONTESTS, ETC.

Art. 614—1. Boxing or sparring contests; Commissioner of Labor; jurisdiction and powers; Amateur associations and contests exempt

(b) None of the provisions of this Act¹ shall be applicable to and enforced against:

(1) All nonprofit amateur athletic associations chartered under the laws of the State of Texas including their affiliated membership clubs throughout the State for the promotion of amateur athletics.

(2) Any contests or exhibitions between students of such institutions which are conducted by any college, school or university as part of the institution's athletic program.

(3) Contests or exhibitions between members of such units which are conducted by any troop, battery, company or units of the Texas National Guard or Texas Defense Guard. Provided, none of the participants in such contests or exhibitions receive a money remuneration or purse or prize equivalent for their performance or services therein.

Every person, club, organization or association of persons conducting or sponsoring amateur boxing or wrestling contests, except those specifically exempted, where an admission fee is charged shall be subject to the tax provision of this Act and shall conduct all wrestling matches, fistic combats, boxing or sparring contests of amateur standing under the conditions specified hereinafter.

(1) The sanction and approval of the Commissioner of Labor Statistics shall be secured at least seven (7) days prior to date of tournaments or contests, and all entries shall be filed with said amateur organization three (3) days prior to date of the tournaments or contests.

(2) Such amateur organization shall have the responsibility of determining and sanctioning the amateur standing or status of each and every contestant who performs or appears in such amateur contests or tournaments.

(3) Such amateur organization shall not be required to secure a license to conduct or promote amateur contests approved by the Commissioner of Labor Statistics.

(4) Such contests shall be subject to the supervision of the Commissioner of Labor Statistics and all profits derived from such contests be used in the development of amateur athletics.

(5) No one shall be permitted to act as referee in amateur contests except a person holding a license or permit from the Commissioner of Labor Statistics.

(6) All contestants shall be examined by a licensed physician within a reasonable time before they enter or engage in contests, and a licensed physician shall be in attendance at the ringside during the full course of the contests or tournaments.

(7) No boxer, wrestler or manager licensed under this Act shall participate in any capacity during any amateur show or exhibition and said participation shall be deemed sufficient grounds for having his professional license suspended or revoked by the Commissioner of Labor Statistics. As amended Acts 1943, 48th Leg., p. 33, ch. 31, § 1.

1. Articles 614—1 to 614—17c.
Approved and effective Feb. 24, 1943.
Section 2 of the amendatory Act of 1943 declared an emergency and provided

that the Act should take effect from and after its passage.

CHAPTER EIGHT.—TEXAS LIQUOR CONTROL ACT

1. INTOXICATING LIQUORS

Art.

- Art. 666—15½. Non-resident Seller's and Manufacturer's Agent's Permit [New].
- 666—43A. No permit or license issued, when [New].
- 666—43B. Citizen defined [New].
- 2. MALT LIQUORS
- 667—5A. Restrictions as to residence in-

- Art. 667—19A. Suspension of license in lieu of cancellation [New].
- 667—19b. Lewd or immoral conduct; conduct offensive to public decency [New].
- 667—23½. Proceeds of sale of beer tax stamps—disposition [New].

I. INTOXICATING LIQUORS

Art. 666—3. "Open saloon" defined; operation of saloons; possession of certain liquors

(a) The term "open saloon" as used in this Act, means any place where any alcoholic beverage whatever, manufactured in whole or in 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. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 1.

Approved and effective May 14, 1943.
Sections 26, 27 of the amendatory Act of 1943, read as follows:

"Sec. 26. 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 Act 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 re-

main 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 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 prosecution and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if prior statute, or part thereof, had not been repealed or amend-

ed, 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.

"Sec. 27. 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."

Section 28 repealed all conflicting laws and parts of laws in conflict herewith.

Section 29 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 666—4. Manufacture, sale, or possession of liquor unlawful; consumption in public place

(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 orders for, 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 of the class required for such privilege. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 2.

(c)(1) It shall be unlawful for any person to consume any alcoholic beverage in any public place, or for any person to possess any alcoholic beverage in any public place for the purpose of consuming the same in such public place, at any time on Sunday between the hours of 1:15 a.m. and 1:00 o'clock p.m., and on all other days at any time between the hours of 12:15 a.m. and 7:00 o'clock a.m.

(2) Any alcoholic beverage possessed in violation of this Section is declared to be an illicit beverage and may be seized without warrant to be used as evidence of a violation of law, and any person in possession thereof or who otherwise violates any provision of this Section may be arrested without warrant.

(3) Any person who violates any provision of this Section shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding Fifty Dollars (\$50). Added Acts 1943, 48th Leg., p. 339, ch. 221, § 1.

(d) Proof that an alcoholic beverage is possessed in violation of preceding Section 4 (c) shall require evidence that the defendant has, on the date of the offense charged, consumed an alcoholic beverage in violation of said Section. Added Acts 1943, 48th Leg., p. 339, ch. 221, § 1.

Approved and effective May 14, 1943.

Approved May 5, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 6 and 7 of the Act of 1943, p. 339, ch. 221 read as follows:

"§ 6. The amendment of any section or any portion of a section of the Texas Liquor Control Act by the enactment of this Act shall not affect nor impair any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any cause before such 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 sections or part thereof amended had remained in force. 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 pro-

ceeded with in all respects as if prior Statute or part thereof had not been repealed or amended.

"§ 7. 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 portion of the Act; and the

Legislature hereby declares that it would have passed such remaining portion despite such invalidity."

Section 8 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Proceedings commenced and rights vested before 1943 amendment, see section 666—3 note.

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.¹ 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 cooperate 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 enable 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 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 and enforce rules and regulations governing labeling and advertising of all liquors sold in this state; 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 rebottling of any alcoholic beverage and the sale thereof; to adopt and enforce rules and regulations to standardize the size of con-

tainers in which liquors may be sold in this state, as well as to any representations required or allowed to be displayed or shown thereon or therein; provided that in respect to the sale of wine to retail dealers the maximum size of container shall be one (1) gallon, and as to all types of liquor the minimum size container shall be as otherwise provided in this Act.¹

(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. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 10.

¹ Articles 666—1 et seq., 667—1 et seq.

Approved May 14, 1943.

Effective and in force at midnight August 31, 1943.

Art. 666—11. Refusal of permit; grounds; discretion as to renewal

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 or caused to be violated any provision of this Act or any rule or regulation of the Board during the twelve-month period preceding the date of his application.

(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 Act¹ or by any rule or regulation of the Board.

(5). That the applicant is not of good moral character, that his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad, or that he is under twenty-one (21) years of age.

(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 reason to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in dry area or in any other manner contrary to law.

(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.

(10). It is hereby declared that the provisions of this Section are required to be applied only to applicants who are newly engaging in the liquor business or whose permits or licenses have been cancelled under any authority contained in this Act. As to those applicants seeking renewal of permits, the Board or Administrator shall be vested with discretionary authority to refuse or grant such permits under the re-

strictions of this Section. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 11.

¹ Articles 666—1 et seq., 667—1 et seq.
Approved and effective May 14, 1943.

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.¹

(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 permittee 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. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 12.

¹ Articles 666—1 et seq., 667—1 et seq.
Approved and effective May 14, 1943.

Art. 666—13. Period of permit; permit as personal privilege; inspection of premises

(a). Any permit granted under this Act, except Wine and Beer Retailer's Permits issued to other than a railway dining, buffet, or club car, shall be good for the year in which issued and ending on August 31st of each year at twelve o'clock midnight.

(b). Any permit or license granted under the terms of either Article I¹ or Article II² of this Act shall be a purely personal privilege, revocable in the manner and 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 or licensee; provided, however, that the board shall prescribe rules and regulations whereby a new permit or license may be applied

for and issued without requiring the payment of additional permit or license fees as to unexpired periods of affected permits or licenses upon death of the holder of any such license or permit, or of any person having an interest therein, or upon the dissolution of any partnership, or under conditions involving receivership or bankruptcy, to the end that the value or cost of the unexpired portion of the permit or license shall not be lost to the successors in interest of any business involved, and that the conduct of said business may be continued without interruption; but further provided that such privilege shall not be extended to the purchaser, in whole or in part, of any business operating under an existing permit or license; and further providing that as to such application as may be filed with the County Judge a fee shall be required to be paid as in the case of an original application for a beer license; and further provided that any successor in interest must meet all requirements of law applicable to the holder of a permit or license under the terms of this Act, except that the executor, administrator, trustee or receiver acting under any judicial proceedings shall not be required to be domiciled in the county in which the business is located.

(c). It is further provided that the Board may, by rule and regulation, provide for the manner and time, not exceeding thirty (30) days, in which the successor in interest of any deceased, insolvent, or bankrupt permittee or receiver, or of any person whose permit or license has been cancelled, may dispose in bulk of alcoholic beverages left on hand at the termination of the use of any affected permit or license.

(d). 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 any peace officer shall have at all times the right and privileges 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. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 3.

¹ Article 666—1 et seq.

² Article 667—1 et seq.

Approved May 14, 1943.

Effective and in force at midnight Aug. 31, 1943.

Proceedings commenced and rights vested before 1943 amendment, see section 666—3 note.

Art. 666—15. Classification of permits

(9). Agent's Permit. An Agent's Permit shall authorize the holder thereof to:

(a). Represent only the holders of permits within this state, other than retail permittees, authorized to sell liquor to retail dealers in Texas;

(b). Solicit and take orders for the sale of liquor from only authorized permit holders.

No such permit shall be granted to any person until he shall show to the satisfaction of the Board that he has been employed or authorized to act as an agent for the holder of a permit required by this Act.¹

It is not intended that an Agent's Permit shall be required of the employee of a permit holder who sells liquor but who remains on the licensed premises in making such sale.

No person holding an Agent's Permit shall be entitled to a Manufacturer's Agent's Permit.

It shall be unlawful for the holder of an Agent's Permit to transport or carry liquor as samples; provided that nothing herein shall restrict such person from carrying or displaying empty sample containers.

The annual fee for such permit shall be Five (\$5.00) Dollars. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 13.

1 Articles 666—1 et seq., 667—1 et seq.
Approved May 14, 1943.

Effective and in force at midnight Aug.
31, 1943.

Art. 666—15b. Fees payable in advance for years; 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 (1) 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 shall for any reason be made by the Board, except when the permittee is prevented from continuing in business by reason of the result of a local option election, or upon the rejection of an application for a permit by the Board or Administrator. So much of the proceeds derived from permit fees under the provisions of this Article as may be necessary are hereby appropriated for the purpose. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 4.

Approved and effective May 14, 1943.

Art. 666—15c. Application for permits other than wine and beer retailer's permits; renewals; change of location

(1) All permits provided for in Article I¹ of this Act, except Wine and Beer Retailer's Permits other than for railway dining, buffet, or club cars shall be applied for and obtained from the Board. Notice of all applications filed with the Board, except Wine and Beer Retailer's, Carrier's, Private Carrier's, Industrial, Agent's, Manufacturer's Agent's, Bonded Warehouse and Storage Permits, shall be given to the County Judge of the county wherein applicant's place of business is located, except where such notice is waived in writing by the County Judge. Such notices shall be given by the Board. Each application shall be accompanied by a cashier's check or a money order for the amount of the fee due the state, payable to the order of the State Treasurer.

(2) No applicant for renewal of permit shall be required to publish notice of such application for renewal. Applications for renewal of permits shall be made under oath and shall contain all information required of the applicant by the Board or Administrator showing such applicant is not disqualified from holding a permit under this Act. Such application shall be accompanied by proper bond and remittance of required fee. Upon finding that such applicant is qualified under the terms of this Act, the Board or Administrator is authorized to issue the permit sought to be renewed. All application forms shall be furnished by the Board.

(3) In the event any person holding a permit under the terms of this Article shall desire to change the location of his place of business, he may file his application for such change with the Board on a form to be prescribed by the Board, and the Board or Administrator may deny such application upon any grounds for which an original may be denied. Any such application may be subject to protest and hearing as though

it were an application for a new permit. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 5.

¹ Article 666—1 et seq.

Approved and effective May 14, 1943.

Art. 666—15½. Non-resident Seller's and Manufacturer's Agent's Permit

A. (1) Non-resident Seller's Permit: A Non-resident Seller's Permit shall be required of all distilleries, wineries, importers, brokers, and others who sell liquor to the holders of permits authorizing the importation of liquor into Texas, regardless of whether such sales are consummated within or without the State. Such permit shall authorize the holder thereof to:

(a). Solicit or take orders for liquor from only the holders of permits authorized to import liquor into this state;

(b). Ship, or cause to be shipped, liquor into Texas only in consummation of sales made to the holders of permits authorized to import liquor into Texas.

(2). No permit shall be granted to an applicant for a Non-resident Seller's Permit until it shall have been shown by the applicant that he has first filed with the Secretary of State a certificate certifying that he has appointed an agent, resident within this state, together with the street address and business of such agent. All notices of hearing for refusal, cancellation, or suspension may be served upon the designated agent as required herein, or upon the permittee, or if a corporation, upon any officer thereof, or upon any other agent of the non-resident seller authorized as such to sell liquor in this state, and all proceedings as to such hearings shall be as is otherwise provided by this Act.¹ Service of notice in such manner shall constitute due process; provided further, that if any permittee shall have failed to maintain within this state a designated agent for service as herein required, service may be had on the Secretary of State, and it shall be the duty of the Secretary of State to send any citation served on him to the holder of the permit by registered mail, return receipt requested, and such receipt shall be prima facie evidence of service upon the permittee.

(3). The Board shall promulgate and enforce rules and regulations requiring the filing of monthly reports supported by copies of invoices relating to liquor sold or purported to be sold to all persons within this state by the holders of Non-resident Seller's Permits. Such report form shall be prescribed and furnished by the Board.

(4). It shall be unlawful for any person holding a Non-resident Seller's Permit, or for any officer, director, agent or employee thereof, or for any affiliate, whether corporate or by management, direction or control to:

(a). Hold or have an interest in the permit, business, assets or corporate stock of any person authorized to import liquor into this state for the purpose of resale; provided that such restrictions shall not be applicable to any such interest acquired on or before January 1, 1941.

(b). Fail to make and file a report with the Texas Liquor Control Board in Austin, Texas, as and when required by any authorized rule and regulation of the Board.

(c). Sell liquor for resale within this state which does not meet the standards of quality, purity, and identity of regulations adopted by the Board.

(d). Advertise any liquor contrary to the laws of this state, or of the regulations of the Board, or to sell liquor for resale in Texas contrary to the labeling and advertising regulations of the Board.

(e). Sell liquor for resale in Texas or to cause liquor to be brought into this state in any size container prohibited by law or regulations of the Board.

(f). Solicit or take orders for liquor from any person not authorized to import liquor into Texas for the purpose of resale.

(g). Induce, persuade or influence any person, or to conspire with any person, or to attempt to induce, persuade or influence any person, to violate this Act or any regulation of the Board.

(h). Violate any provision of Section 17, Article I, of this Act.²

(i). Exercise any privilege conveyed under a Non-resident Seller's Permit during the pendency of an order of suspension imposed by the Board or Administrator.

(5). All liquor and the containers thereof sold, imported or shipped into this state, or possessed, stored or transported in violation of the restrictions contained in this Section are hereby declared illicit and subject to seizure and forfeiture as otherwise provided for 'illicit beverages'.

(6). In event of cancellation or suspension of any Non-resident Seller's Permit, the Board shall give immediate notice thereof in writing to all holders of permits authorized to import liquor into this state.

(7). Every holder of a Non-resident Seller's Permit shall permit any state officer to make examination of all books, accounts, records, minutes, letters, memoranda, documents, checks, vouchers, telegrams, constitution and by-laws, and other records of said permittee as often as may be deemed necessary by such officer. A written request shall be made to the permittee or his duly authorized manager or representative, or, if a corporation, to any officer thereof, at the time such officer desires to examine the business of said permittee. It shall be the duty of the person to whom said request is presented to immediately permit the said officer to inspect and examine all the said books, records, and other documents of such permittee, and to answer under oath any questions propounded by such officer with reference thereto. The said officer shall have the power and authority to make investigation into the organization, conduct, and management of any person holding a Non-resident Seller's Permit and he shall have authority to inspect and examine any of its books, records, and other documents and to take such copies thereof as in his judgment may show or tend to show that said permittee has been or is engaged in violation of its rights and privileges or in violation of any law of this state. No such state officer as herein provided shall make public or use documents or information derived in the course of examination of records or documents, except in the course of some proceeding in which the Board or the state is a party, either judicial in nature or in an action instituted to suspend or cancel the permit or to collect taxes due or penalties for violation of the laws of this state, or for the information of any officer of this state charged with the enforcement of its laws. If any permittee or his duly authorized representative shall fail or refuse to permit examination of records as herein provided or shall refuse to answer any questions propounded by such officer incident to the examination or investigation in progress, or shall refuse to permit a state officer to take copies of any of said books, records, or other documents, whether same be situated within or without this state, his permit shall be subjected to suspension or cancellation as provided in this Act.¹

"State Officer" as used in this Section shall mean and include any representative of the Texas Liquor Control Board, the Attorney General of Texas, or any assistant or representative of such Attorney General.

(8) All holders of Non-resident Seller's Permits shall be required to designate in such manner and on such forms as may be required by the Board those persons authorized as agents to represent such permit holder in this state, and any failure to do so shall constitute a violation of this Act.

(9) No fee shall be paid for a Non-resident Seller's Permit."

B. Manufacturer's Agent's Permit. A Manufacturer's Agent's Permit shall authorize the holder thereof to:

(a) Represent only the holders of Non-resident Seller's Permits;

(b) Solicit and take orders for the sale of liquor from only the holders of permits authorized to import liquors for the purpose of resale.

No such permit shall be granted to any person until he shall show to the satisfaction of the Board that he has been duly authorized to act as agent of the principal he proposes to represent.

No person holding a Manufacturer's Agent's Permit shall be entitled to an Agent's Permit.

It shall be unlawful for the holder of a Manufacturer's Agent Permit to transport or carry liquor as samples; provided that nothing herein shall restrict such person from carrying or displaying empty sample containers.

The annual fee for such permit shall be Five (\$5.00) Dollars. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 15½, as added Acts 1943, 48th Leg., p. 509, ch. 325, § 14.

¹ Articles 666—1 et seq., 667—1 et seq.

² Article 666—17.

Approved May 14, 1943.

Effective and in force midnight Aug. 31, 1943.

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; provided, that it shall not be unlawful for a person holding a Wine-Only Package Store Permit to also hold a Beer Retail Dealer's Off-Premise License.

(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 thing of value, or to guarantee the fulfillment of any financial obligation of any retailer;

(c). To make 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 to any retail dealer any equipment, fixtures, or supplies to be used in the selling or dispensing of alcoholic beverages;

(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, or the agent, servant, or employee of either.

(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 the Board, or any peace officer, upon request to make a full inspection, investigation, or search of any licensed premise or vehicle.

(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.

(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 stamps have not been mutilated or defaced.

(8). It shall be unlawful for any person to break or open any container containing liquor, or to possess such opened container of liquor on 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 on 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 Act² 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, to transport, manufacture, or sell 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 ($\frac{1}{2}$) pint; provided however, that in the case of malt or vinous liquor a six (6) ounce container shall be the minimum.

(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.²

(17). It shall be unlawful for any person to manufacture, import, sell, or possess for the purpose of sale any alcoholic beverages made from dried grapes, dried fruits, and dried berries, or any compounds made from synthetic materials, substandard wines or from must concentrated at any time to more than eighty (80°) degrees Balling.

(18). It shall be unlawful for any person to import or to transport into this state from any place outside the state any liquor, in excess of one (1) quart, in containers to which have not been affixed proper state

tax stamps, consigned to, intended for delivery to, or being transported to any person or place located within the state boundaries, unless the same shall be consigned to the holder of a Wholesaler's Permit authorizing the sale of such liquor and at his place of business.

(19). It shall be unlawful for any person to use, display, or to exercise any privilege granted by a permit except at the place, address, premises, or location for which the permit is granted.

(20). It shall be unlawful for any person to consent to the use of or to allow his permit to be displayed by or used by any person other than the one to whom the permit was issued.

(21). It shall be unlawful for any holder of either an Agent's Permit or a Manufacturer's Agent's Permit to solicit or take orders for the sale of liquor, or to represent himself as an agent of any person, other than the person designated in the application for permit as being represented.

(22). It shall be unlawful for the holder of a Wholesaler's Class B Wholesaler's, or Wine Bottler's Permit, or any agent, servant or employee thereof, to sell or deliver liquor to any person who is not the holder of a permit authorizing the re-sale of liquor in this state.

(23). It shall be unlawful for any retail dealer, or any agent, servant, or employee thereof, to conspire with any person to violate any of the provisions of this Section or to accept the benefits of any act prohibited by this Section.

(24). It shall be unlawful for the holder of any permit provided for in this Act authorizing the importation of liquor, or the agent or employee of such person, to purchase from, order from, or give an order to, any person who is not the holder of a Non-resident Seller's Permit, or any holder of a Non-resident Seller's Permit during the period of any suspension ordered by the Board or Administrator against any such Non-resident Seller's Permit after such authorized importer has received notice of such suspension. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 15.

¹ Article 666—1 et seq.

² Articles 666—1 et seq., 667—1 et seq.

Approved May 14, 1943.

Effective and in force at midnight Aug. 31, 1943.

Proceedings commenced and rights vested before 1943 amendment, see article 666—3 note.

Art. 666—25. Sale regulations

It shall be unlawful for any person to sell or deliver any liquor:

(a) Between 10:00 o'clock p.m. of any day and 9:00 a.m. of the following day of any day except Sunday.

(b) On any general primary or general election day between the hours of 9:00 o'clock a.m. and 8:00 o'clock p.m.

(c) On Sundays. As amended Acts 1943, 48th Leg., p. 339, ch. 221, § 2.

Approved May 5, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Art. 666—26. Sale to minors, exceptions

Proceedings commenced and rights vested before 1943 amendment, see article 666—3 note.

Art. 666—29. Common nuisances, places of illegal manufacture, sale, possession or consumption as

(a) Any room, building, boat, structure, or place of any kind where alcoholic beverages are sold, bartered, manufactured, stored, possessed or

consumed in violation of this Act, or under conditions and circumstances contrary to the purposes of this Act, and all such beverages and all property kept and used in any such place, hereby are declared to be a common nuisance; and any person who maintains or assists in maintaining such common nuisance shall be guilty of a violation of this Act. The County Attorney or the District Attorney in the county wherein such nuisance exists or is kept or maintained, or the Attorney General, may maintain an action by injunction in the name of the State of Texas to abate and temporarily and permanently enjoin such nuisance. Such proceedings shall, except as otherwise herein provided, be guided by the rules of other injunction proceedings. The plaintiff shall not be required to give bond in such action and the final judgment shall constitute a judgment in rem against the property as well as a judgment against the defendant. Upon such final judgment the court shall order that said room, house, building, structure, boat, or place of any kind shall be closed for a period of one year, or closed for a part of said time and until the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety to be approved by the court making the order in the penal sum of not less than One Thousand Dollars (\$1,000), payable to the State and conditioned that alcoholic beverages will not thereafter be manufactured, bartered, possessed, stored, or sold, or otherwise disposed of therein, or kept thereon or therein, with the intent to sell or otherwise dispose of contrary to law, that the provisions of this Act will not be violated, that no person shall be permitted to resort thereon or therein for the purpose of drinking alcoholic beverages in violation of the provisions of this Act, and that the owner, lessee, tenant, or occupant thereof will pay all fines, costs, and damages assessed against him for any violation of this Act. If any condition of such bond is violated by either the owner, lessee, tenant, or occupant thereof, the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated.

(b) Upon any appeal from the judgment of the District Court such judgment shall not be superseded except upon the posting of an appeal-pending bond in the penal sum of not more than Five Hundred Dollars (\$500), in addition to bond for costs of such appeal.

(c) "Appeal-pending bond" as used in this Section shall mean a bond to be approved by the District Court, required to be posted before the judgment of the trial court may be superseded on appeal, and conditioned that in the event the judgment of the trial court is finally affirmed it may be forfeited in the same manner for any of the causes for which a bond required upon final judgment may be forfeited as to any acts committed during the pendency of appeal. As amended Acts 1943, 48th Leg., p. 339, ch. 221, § 4.

Approved May 5, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Art. 666—30. Beverages and property forfeited to state; sale; disposition of moneys; effective date

(a). All alcoholic beverages and the containers thereof, equipment, and other property forfeited to the State as nuisances, unless otherwise herein provided, and all illicit beverages and the containers thereof forfeited to the state, shall be turned over to the Board for public or private sale in such place or manner as it may deem best; provided, that the Board shall exercise diligent effort to obtain the best available price for anything thus sold; provided, further, that any bill of sale executed by the Board or Administrator shall convey a good and valid title to the purchaser as to any such property sold. The Board shall sell alcoholic

beverages only to the holders of qualified permits or licenses. No alcoholic beverage unfit to be sold for public consumption or of illicit manufacture, may be sold by the Board, but are declared a nuisance per se and may be destroyed by the Board. The certificate of any qualified chemist shall be accepted by the Board as evidence of unfitness of such alcoholic beverages.

(b) All moneys derived from the sale of any beverages or property shall be placed in a separate fund in the State Treasury to be designated as the Confiscated Liquor Fund, against which may be drawn all expenses incurred in assembling, storage, transportation, sale, and accounting for such confiscated liquor and property. So much as is necessary of said Confiscated Liquor Fund shall be available to the Board to defray the expenses of purchasing and accumulating evidence as to violations of and for the purpose of enforcing the provisions of this Act. Any balance remaining in said fund on September 1 of each biennium shall be transferred and deposited in the General Fund of the State of Texas.

As to liquors confiscated by representatives of the Board, it shall be incumbent upon the officer making the seizure to list each and every item or items so confiscated and the place and name of owner, operator, or person from whom such seizure is made. Such report shall be made in triplicate, two copies of which shall be verified by oath; one verified copy shall be retained in the permanent files of the Liquor Control Board, and one verified copy shall be filed with the Comptroller of the State of Texas, which shall constitute a permanent file, and both of which shall be subject to inspection by any member of the Legislature or any duly authorized law-enforcement agency of the State of Texas. A false statement of said confiscated liquor, beer, wine, or other personal property shall be punishable as now provided for perjury and/or false swearing. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 6.

Approved May 14, 1943.

Effective and become a law, Sept. 1, 1943.

Proceedings commenced and rights vested before 1943 amendment, see article 666—3 note.

Art. 666—32. Local option election

The Commissioners Court of each county in the state upon its own motion may order an election wherein the qualified voters of any county or of any justice precinct or incorporated town or city may by the exercise of local option determine whether or not the sale of alcoholic beverages of one or more of the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct, or incorporated town or city; and local option elections shall be called by the Commissioners Court upon proper petition as herein provided. Upon the application of any one or more qualified voters of any county, justice precinct, or incorporated town or city, the county clerk of such county shall issue to the applicant or applicants a petition to be circulated among the qualified voters thereof for the signatures of those qualified voters in such area who desire that a local option election be called therein for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct or incorporated town or city. The petition so issued shall clearly state the issue or issues to be voted upon in such election; each such petition shall show the date of its issue by the county clerk and shall be serially numbered, and each page of such petition shall bear the same date and serial number, and shall bear

the seal of the county clerk. The county clerk shall deliver as many copies of said petition as may be required by the applicant and each copy shall bear the date, number and seal on each page as required in the original. The county clerk shall keep a copy of each such petition and a record of the applicants therefor. When any such petition so issued shall within one hundred twenty (120) days after the date of issue be filed with the clerk of the Commissioners Court bearing the actual signature of as many as ten (10%) per cent of the qualified voters in any such county, justice precinct, incorporated town or city, together with a notation showing the residence address of each of the said signers, taking the votes for Governor at the last preceding general election at which time Presidential electors were elected as the basis for determining the qualified voters in any such county or political subdivision, it is hereby required that the Commissioners Court at its next regular session shall order a local option election to be held upon the issue or issues set out in such petition. It shall be the duty of the county clerk to check the names of the signers of any such petition and the voting precincts in which they reside to determine whether or not the signers of such petition are in fact qualified voters of the county or political subdivision at the time such petition is presented, and to certify to the Commissioners Court the number of qualified voters signing such petition. No signature shall be counted where there is reason to believe that it is not the actual signature of the purported signer. The minutes of the Commissioners Court shall record the date any such petition is presented, the names of the signers thereof, and the action taken with relation to the same. No subsequent election upon the same issue in the same political subdivision shall be held within one (1) year from the date of the preceding local option election in any county or political subdivision thereof. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 7.

Approved and effective May 14, 1943. ed before 1943 amendment, see article
Proceedings commenced and rights vest- 666—3 note.

Art. 666—33. Place of holding election

When the Commissioners Court shall order an election as herein provided for, it shall be the duty of said court to order such election to be held at the voting places within such county or subdivision thereof, upon a day not less than twenty (20) nor more than thirty (30) days from the date of said order, and the order thus made shall state the issue or issues to be voted upon in such election, and said order shall be held to be prima facie evidence that all provisions necessary to give it validity or to clothe the court with jurisdiction to make it valid, have been duly complied with; provided that such court shall appoint such officers to hold such elections as are now required to hold general elections. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 7.

Approved and effective May 14, 1943.

Art. 666—35. Official ballot; requisites

(a) At said election the vote shall be by official ballot which shall have printed or written thereon at the top thereof in plain letters the words "Official Ballot". Said ballot shall have also written or printed thereon the issue or issues appropriate to the election order as provided in Section 40 of this Act,¹ and the clerk of the court shall furnish the presiding officer of each voting box within such subdivision or county with a number of such ballots, to be not less than twice the number of qualified voters at such voting boxes, and the presiding officer of each voting box shall write his name on the back of each ballot before delivering the same to the voter, and each person offering to vote at each

election shall, at the time he offers to vote, be furnished by such presiding officer with one such ballot; and no voter shall be permitted to depart with such ballot and shall not be assisted in voting by any person except such presiding officer or by some officer assisting in the holding of such election, under the direction of such presiding officer when requested to do so by such voter.

(b). In elections to legalize the sale of alcoholic beverages those in favor of such legalization shall erase the words "Against legalizing the sale of, etc." by making a pencil mark through same; and those who oppose such legalization shall erase the words "For legalizing the sale of, etc." by making a pencil mark through same.

In elections to prohibit the sale of alcoholic beverages those who favor such prohibition shall erase the words "Against prohibiting the sale of, etc." by making a pencil mark through same; and those who oppose such prohibition shall erase the words "For prohibiting the sale of, etc." by making a pencil mark through same. No ballot shall be received or counted by the officers at such elections that is not an official ballot, and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer as provided by this Act. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 7.

¹ Article 666—40.

Approved and effective May 14, 1943.

Art. 666—37. Canvass of votes

Said court shall hold a special session on the fifth day after the holding of said election, or as soon thereafter as practicable, for the purpose of canvassing the votes and certifying the results, and if a majority of the voters favor the issue "For prohibiting the sale, etc." or "Against legalizing the sale, etc." as to any alcoholic beverages of the various types and alcoholic content, said court shall immediately make an order declaring the results of said vote and absolutely prohibiting the sale of such prohibited type or types of alcoholic beverages within the political subdivision after thirty (30) days from the date of declaring the results thereof, and thereafter until such time as the qualified voters therein may thereafter at the legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held as prima facie evidence that all provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 7.

Approved and effective May 14, 1943.

Art. 666—38. Posting order prohibiting sale of liquor

The order of said court declaring the result and prohibiting the sale of any or all types of alcoholic beverages shall be published by the posting of said order at three (3) public places within the county or the political subdivision in which the election was held, which fact shall be entered by the county judge on the minutes of the Commissioners Court. An entry thus made or a copy thereof certified under the hand and seal of the clerk of the court shall be prima facie evidence of such posting. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 7.

Approved and effective May 14, 1943.

Art. 666—39. Sale or distribution lawful on vote for sale

If a majority voting at such election favor the issue "For legalizing the sale, etc." or "Against prohibiting the sale, etc." as to any alcoholic

beverages of the various types and alcoholic content, the court shall make an order declaring the results and have the same entered of record in the office of the clerk of said court, whereupon it shall be lawful in such political subdivision to manufacture, sell or distribute such type or types of alcoholic beverages as may be favored in the election in accordance with the terms of this Act, until such time as the qualified voters therein may thereafter, at a legal election held for that purpose, by a majority vote decide otherwise, and the order thus made shall be held prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof. It shall be the duty of the county clerk within three (3) days after the results of any such election have been declared to certify such results to the Secretary of State at Austin. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 7.

Approved and effective May 14, 1943.

Art. 666—41. Penalty for violations of act

Any person who violates any provision of this Act¹ for which a specific penalty is not provided shall be deemed guilty of a misdemeanor and upon conviction be punished by fine of not less than One Hundred (\$100.00) Dollars and not more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

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. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 8.

¹ Articles 666—1 et seq., 667—1 et seq.

Approved and effective May 14, 1943.

Proceedings commenced and rights vested before 1943 amendment, see article 666—3 note.

Art. 666—42. Seizure of liquors; suit for forfeiture; intervention by claimants; sale

(a) All alcoholic beverages declared by this Act¹ to be a nuisance, and all illicit beverages as defined by this Act, may be seized with or without a warrant by an agent or employee of the Texas Liquor Control Board, or by any peace officer, and any person found in the possession or in charge thereof may be arrested without a warrant. No alcoholic beverages or articles so seized shall be replevied, but shall be stored by the Board, or by the sheriff of the county wherein the seizure was made, to be held for final action of the court as hereafter provided.

(b) It shall be the duty of the Attorney General, the District Attorney, and the County Attorney, or any of them, when notified by the officer making the seizure, or by the Texas Liquor Control Board, that such seizure has been made, to institute a suit for forfeiture of such alcoholic beverages and property, such suit to be brought in the name of the State of Texas in any court of competent jurisdiction in the county wherein such seizure was made. Notice of pendency of such suit shall be served in the manner prescribed by law and the case shall proceed to trial as other civil cases. If upon the trial of such suit it is found that alcoholic beverages or property are a nuisance or were used or kept in maintaining a nuisance, under the terms of this Act,¹ or that the alcoholic beverage is illicit, as defined by this Act, then the court trying said cause shall render judgment forfeiting the same to the State of Texas and ordering the same disposed of as provided for by Section 30² of this Article. The costs of such proceedings shall be paid by the

Board, out of funds derived under the provisions of said Section 30, or from any other fund available to the Board for such purpose.

(c) As to any property or articles upon which there may be a lien, by a bona fide lien holder, the holder of such may intervene to establish his rights and shall be required to show such lien to have been granted in a bona fide manner and without knowledge of the fact at the time of creation of the lien, that any article or property upon which such lien exists had been used or was to be used in violation of this Act.¹ If the holder of any such lien shall intervene, then the court trying said cause shall render judgment forfeiting the same to the State of Texas, and authorizing the issuance of an order of sale directed to the sheriff or any constable of the county wherein the property was seized, commanding such officer to sell said property in the same manner as personal property is sold under execution. The court may order such property sold in whole or in part as it may deem proper and the sale shall be conducted at the courthouse door. The money realized from the sale of such property shall be applied first to the payment of the costs of suit and expenses incident to the sale and after such expenses have been approved and allowed by the court trying the case, then the further proceeds of such sale shall be used to pay all such liens according to priorities, and any remaining proceeds shall be paid to the Board to be allocated as provided in Section 30² hereof. All such liens against property sold under this Section shall be transferred from the property to the proceeds of its sale.

(d) The sheriff executing said sale shall issue a bill of sale or certificate to the purchaser of said property, and such bill of sale or certificate shall convey valid and unimpaired title to such property. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 9.

¹ Articles 666—1 et seq., 667—1 et seq.

² Article 666—30.

Approved and effective May 14, 1943.

Proceedings commenced and rights vested before 1943 amendment, see article 666—3 note.

Art. 666—43A. No permit or license issued, when

No permit or license applied for under the terms of this Act¹ may be issued to any person upon an application, either for an original license or permit, or for any license or permit sought to be transferred from another location, when the premises for which the permit or license is sought is licensed under any permit or license against which an order of suspension by the Board or Administrator is pending or unexpired, or against which existing permit or license the Board has initiated action to cancel or suspend. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 43-A, as added Acts 1943, 48th Leg., p. 509, ch. 325, § 14.

¹ Articles 666—1 et seq., 667—1 et seq.

Approved and effective May 14, 1943.

Art. 666—43B. Citizen defined

When the terms "citizen of Texas" and "citizen of this state" are used in this Act, they shall mean not only citizenship in Texas, as required by this Act,¹ but shall also require citizenship in the United States. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 43-B, as added Acts 1943, 48th Leg., p. 509, ch. 325, § 14.

Approved and effective May 14, 1943.

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 Articles 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 liquor stamps may be made by the Board from the revenue derived from the sale of such stamps before the same has been allocated, and so much of such funds as may be necessary is hereby appropriated for that purpose. A refund may be made by the Board in all cases where stamped liquor is returned to the distillery or manufacturer upon certification by an Inspector for the Board who inspected the shipment. The Board may also make a refund to any person who has been authorized to purchase stamps and who is in possession of unused liquor stamps upon discontinuation of business. In either instance it must be shown that the stamps for which a refund is asked were purchased from the State Treasurer. No other refunds for liquor stamps shall be allowed. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 16.

¹ Article 666—1 et seq.

² Article 667—1 et seq.

Approved and effective May 14, 1943.

Art. 666—46. Disposition of receipts

After allocation of funds to defray administrative expenses as provided in the current Departmental Appropriation Act, receipts from the sale of distilled spirits, wine, and malt liquor tax stamps shall be deposited in the State Treasury as follows: One-fourth ($\frac{1}{4}$) to the credit of the Available School Fund, and three-fourths ($\frac{3}{4}$) to the credit of the Clearance Fund. All revenues derived from the collection of permit

fees provided for under Article I¹ shall be deposited to the credit of the Clearance Fund.

The "Clearance Fund" as referred to herein is the fund created by the provisions of Section 2, Article XX, House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature,² and funds allocated to such Clearance Fund shall be used for the purposes expressed in that Act. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 25-A.

¹ Article 666—1 et seq.

² Vernon's Rev.Civ.St., art. 7083a.

Approved and effective May 14, 1943.

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 1% or more of alcohol by volume and not more than 4% 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 Texas Liquor Control Board.

(d). The term "container" means any container holding beer in quantities of one (1) barrel, one-half ($\frac{1}{2}$) barrel, one-quarter ($\frac{1}{4}$) barrel, one-eighth ($\frac{1}{8}$) 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, or any agent, servant, or employee thereof.

(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 (1) barrel, one-half ($\frac{1}{2}$) barrel, one-quarter ($\frac{1}{4}$) barrel, or one-eighth ($\frac{1}{8}$) 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, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 17.

Approved and effective May 14, 1943.

Art. 667—3. License required

(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 other places of business in any counties wherein the sale of beer is legal for the distribution of beer upon obtaining a Branch License for each such place of business 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 (\$50.00) Dollars; 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 and 25/100 (\$4.25) Dollars 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 the county in which the application is filed 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.

If, by local option election, the holder of a Branch License shall be prevented from selling beer in the county of his residence and for such reason his primary license becomes void, nevertheless he shall not be denied the right of lawfully selling beer under any existing Branch License until the normal expiration thereof; it further being provided that any such manufacturer or distributor may, upon the expiration of any such Branch License, immediately thereafter obtain in any county where-in a Branch License has been held a primary Manufacturers or Distributor's License without the necessity of qualifying as a resident of the county in which such primary license is sought. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 18.

Approved and effective May 14, 1943.

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 deposited in the Clearance Fund provided by Section 2, Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature,¹ to be used as provided in that Act. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 25-B.

¹ Vernon's Rev. Civ. St., art. 7083a.

Approved and effective May 14, 1943.

Art. 667—5A. Restrictions as to residence inapplicable, when

The restrictions as to residence in the county in which a Retail Dealer's License is applied for shall not be applicable to any retail dealer who may have qualified by law and obtained a Retail Dealer's License in the county of his residence, when such retail dealer also seeks to obtain a Retail Dealer's License in any other county. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, § 5-A, as added Acts 1943, 48th Leg., p. 509, ch. 325, § 19.

Approved and effective May 14, 1943.

Art. 667—6. Hearing upon application

(a) 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.

(b) Upon the filing of any application for a license, the county clerk shall give notice thereof by posting at the court house 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.

(c) 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 not 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 collector 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, 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, or that there are other legal reasons why a license should not be issued. Upon any 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.

(d) 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 the violation of the law or likely to result in any jeopardy to the peace, morals, health, or safety of the general public. There shall be sufficient legal reason to deny a license if it is found that the place, building, or premises for which the license is sought has theretofore been used for selling alcoholic beverages in violation of law at any time during the six (6) months immediately preceding the date of application, or has during that time been a place operated, used, or frequented in any manner or for any purpose contrary to the provisions of this Act,¹ or, so operated, used or frequented for any purpose or in any manner that is lewd, immoral or offensive to public decency. 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.

(e) In the event the county judge, Texas Liquor Control Board or Administrator denied the application for a license, he shall enter his judgment accordingly, and the applicant may within thirty (30) days there-

after appeal to the district court of the county where such application is made, and such district court may hear and determine such appeal in term-time or vacation and under the same rules and procedure as provided in Section 14, Article I, of this Act.² In the event the judgment of the district court shall be favorable to the applicant and an appeal is taken, 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. In the event the license is finally issued upon orders of the district court, and, upon appeal, the order of the district court be reversed, then the mandate of the appellate court shall, without further proceedings, invalidate and make void the license authorized by order of the district court, and the holder thereof shall, upon application therefor, be entitled to a refund of the proportionate amount of unexpired fees. So much of the proceeds collected for license fees under this Article as may be necessary for refunds herein provided for are appropriated for that purpose. Any person appealing from a judgment or order under the provisions of this Section 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; provided, however, no such bond shall be required upon appeals filed on behalf of the state.

(f). 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 (\$5.00) Dollars, 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.¹

(g). 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. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 20.

¹ Articles 666—1 et seq., 667—1 et seq.

² Article 666—14.

Approved and effective May 14, 1943.

Proceedings commenced and rights vested before 1943 amendment, see article 666—3 note.

Art. 667—7. Expiration and renewal of licenses; assignability; refund; duplicate; second license for same location

(a). Any license issued under the terms of this Article, except Branch Licenses and Temporary Licenses specifically provided for, shall terminate one (1) year from the date issued, and no license shall be issued for a longer term than one (1) year. 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 nor less than five (5) 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 required of the applicant by the Board showing such applicant is not disqualified from holding a license under this Act,¹ 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 (\$2.00) Dollars, which 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 assigned by the holder thereof to any 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 upon a form prescribed by the Board to the county judge and receiving his consent or approval, but further providing that the county judge may deny such application for change in the place of business for any cause for which an original application may be denied. Any such application may be subject to protest and hearing as though it were an original application. No additional license fees for the remaining unexpired term of the license shall be required of the applicant for change of location.

(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 otherwise provided in this Article.

(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,¹ 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."

(i). If any license as provided in this Act¹ shall have been issued to any person for a premises, location, or place of business, and said license is still in effect no other license shall be issued to an applicant therefor unless the holder of the existing license shall have made showing in a manner prescribed by the Board that any privilege conveyed by the existing license will no longer be exercised by the holder thereof at such premises, location, or place of business. If the holder of such license

desires to transfer the license to another location, such transfer may be applied for as herein provided. In the event the holder of such license makes any declaration required by the Board that the license is no longer to be used, then, and in that event it shall be unlawful for the holder thereof to manufacture, sell, or possess for the purpose of sale any beer unless and until he shall have made application to reinstate the use of the license in the manner and procedure required in making application for an original license, and re-use of the license may be denied by the County Judge before whom the application for re-use shall be filed, or by the Texas Liquor Control Board or the Administrator for any cause for which a license applied for in an original application may be denied. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 22.

¹ Articles 666—1 et seq., 667—1 et seq.

Approved and effective May 14, 1943.

Proceedings commenced and rights vested before 1943 amendment, see section 666—3 note.

Art. 667—10. Prohibited hours

(a) It shall be unlawful for any person to sell beer or offer same for sale:

(1) On Sunday at any time between the hours of 1:00 o'clock a.m. and 1:00 o'clock p.m.

(2) On any day except Sunday at any time prior to 7:00 o'clock a.m. As amended Acts 1943, 48th Leg., p. 339, ch. 221, § 3.

Approved May 5, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

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 amendment 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. All incorporated cities and towns are hereby authorized in adopting charter amendments or ordinances to distinguish between retailers selling beer for consumption on the premises where sold and those retailers, manufacturers, or distributors selling not for consumption on the premises where sold, and to provide for separate and distinct regulations. Nothing herein shall authorize any incorporated town or city to extend by ordinance or charter the hours of sale as fixed by State law. As amended Acts 1943, 48th Leg., p. 339, ch. 221, § 5.

Approved May 5, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Art. 667—19A. Suspension of license in lieu of cancellation

As to any causes for cancellation of licenses herein provided, in lieu of such cancellation, the Board or Administrator shall have the discre-

tionary power and authority to suspend any such license for a period not to exceed sixty (60) days. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 19-A, as added Acts 1943, 48th Leg., p. 509, ch. 325, § 19.

Approved and effective May 14, 1943.

Art. 667—19B. Lewd or immoral conduct; conduct offensive to public decency

For the purposes contemplated by this Act,¹ conduct by any person at a place of business where the sale of beer at retail is authorized that is lewd, immoral, or offensive to public decency is hereby declared to include but not be limited to the following prohibited acts; and it shall be unlawful for any person engaged in the sale of beer at retail, or any agent, servant, or employee of said person, to engage in or to permit such conduct on the premises of the retailer:

(a) The use of or permitting the use of loud and vociferous or obscene, vulgar, or indecent or abusive language.

(b) The exposure of person or permitting any person to expose his person.

(c) Rudely displaying or permitting any person to rudely display a pistol or any other deadly weapon in a manner calculated to disturb the inhabitants of such place.

(d) Solicitation of any person for coins to operate musical instruments or other devices.

(e) Solicitation of any person to buy drinks or beverages for consumption by the retailer or his employees.

(f) Becoming intoxicated on licensed premises or permitting any intoxicated person to remain on such premises.

(g) Permitting entertainment, performances, shows, or acts that are lewd or vulgar.

(h) Permitting solicitation of persons for immoral or sexual purposes or relations.

(i) Failing to comply with or failure to maintain the retail premises in accordance with existing sanitary and health laws of this state or any sanitary or health provision of a city ordinance. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 19-B, as added Acts 1943, 48th Leg., p. 509, ch. 325, § 19.

¹ Articles 666—1 et seq., 667—1 et seq.

Approved and effective May 14, 1943.

Art. 667—23½. Proceeds of sale of beer tax stamps—disposition

After allocation of funds to defray administrative expenses as provided in the current Departmental Appropriation Act, all funds derived from the sale of beer tax stamps shall be deposited in the State Treasury as follows:

(a) One-fourth to the Available School Fund.

(b) Three-fourths to the Clearance Fund as provided in Section 2, Article XX of H. B. No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature,¹ for the purposes designated by such Act. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 23½, as added Acts 1943, 48th Leg., p. 509, ch. 325, § 23.

¹ Vernon's Rev.Civ.St., art. 7083a.

Approved and effective May 14, 1943.

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 manufacture to dispense their own products on the brewery premises.

(c). **Loans and Guaranties:** To furnish, give, or lend any money or other thing of value to any person engaged or about to engage in selling brewery products for consumption on or off the premises where sold, or to any such person for the use, benefit, or relief of said person, or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged or about to engage in selling beer at retail.

(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 retail dealer for an advertising or distribution service.

(g). **Prizes and Premiums:** To offer any prize, premiums, gift, or other inducement 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 any 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 and 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 liquor 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 allusion or suggestion to the alcoholic strength of the product or to any manufacturing process, ageing, analysis, or scientific matter of 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", "pre-war 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, or is reasonably calculated to cause deception of the consumer or buyer with respect to the product.

(n). **Administrative Authority to Relax:** It is hereby specifically provided that the Board may by rule and regulation relax the restrictions contained in subdivisions (c), (e), and (g) of this sub-section in respect to the sale or gift of novelties advertising the products of the manufacturer or distributor; as to gifts made to civic, religious, or charitable organizations; as to cleaning and maintenance of coil connections for dispensing draught beer; as to the lending of equipment for special occa-

sions; and as to acts of a courtesy nature only; provided that such regulations shall establish definite limitations not inconsistent with the general provisions of this Section.

(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 Act¹ 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 Sub-section, provision, sentence, clause, or phrase thereof, irrespective of the fact that any provision is declared unconstitutional. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 24.

¹ Articles 666—1 et seq., 667—1 et seq.

Approved and effective May 14, 1943.

Art. 667—24a. Outdoor advertising

1. Definitions. Outdoor Advertising. The term "outdoor advertising" as used herein shall mean any sign bearing any words, marks, description or other device and used to advertise the alcoholic beverage business of any person engaged in the manufacture, sale or distribution of alcoholic beverages, or in the advertisement of any beverage containing alcohol in excess of one-half of one ($\frac{1}{2}$ of 1%) per cent by volume, when such sign is displayed anywhere outside the walls or enclosure of any building or structure where there exists a license or permit to sell alcoholic beverages. The term "outdoor advertising" shall not be inclusive of any advertising appearing in a newspaper, magazine, or other literary publication published periodically. Any such sign erected inside a building and within five (5) feet of any exterior wall of such building facing a street or highway and so placed that it may be observed by a person of ordinary vision from outside the building, shall be deemed outdoor advertising. For the purposes of this Section the word "sign" shall not include any identifying label affixed to any container as authorized by law.

Billboard. The word "billboard" as used herein shall mean a structure directly attached to the land, or to any house or building, and having one or more spaces used for displaying thereon a sign or advertisement of the alcoholic beverage business of any person engaged in the manufacture, sale or distribution of alcoholic beverages, or for the advertisement of any beverage containing alcohol in excess of one-half of one ($\frac{1}{2}$ of 1%) per cent by volume, whether or not such structure or sign be illuminated by artificial means. The term "billboard" shall not be inclusive of any wall or other part of any structure used as a building, fence, screen, front or barrier.

Electric Sign. The term "electric sign" as used herein shall mean a structure or device, other than an illuminated billboard, by means of which artificial light created through the application of electricity is utilized for the advertisement of the alcoholic beverage business by any

person engaged in the manufacture, sale or distribution of alcoholic beverages, or for the advertisement of any beverage containing alcohol in excess of one-half of one ($\frac{1}{2}$ of 1%) per cent by volume.

2. All outdoor advertising as herein defined is hereby prohibited within the State of Texas except as herein expressly provided:

(a). The use of billboards or electric signs as herein defined having a surface of not less than one hundred eighty (180) square feet is hereby authorized unless located or to be located in a manner contrary to the limitations imposed by this Act.¹

(b). The holders of retailers' licenses or permits are authorized to erect or maintain at their respective places of business one sign only containing the words:

If a Beer Retailer, the word "Beer".

If a Wine and Beer Retailer, the word or words "Beer", "Beer and Wine", or "Beer, Wine and Ale".

If the holder of a Package Store Permit, the word or words "Package Store", "Liquors" or "Wines and Liquors".

If the holder of a Wine Only Package Store Permit, the word "Wines".

Such sign may be placed within or without the place of business so as to be visible to the general public. No such sign shall contain letters of greater height than twelve (12) inches, and no such sign shall contain any wording, insignia or device representative of the brand or name of any alcoholic beverage or the manufacturer of any alcoholic beverage. The Board or Administrator is hereby authorized to expand this provision to the extent of permitting a licensee to erect or maintain one such sign at each entrance or side of a building occupied by a licensee and facing more than one street or highway."

(c). The use of billboards, electric display signs or other signs to designate the firm name or business of any holder of a permit or license authorizing the manufacture, rectification, bottling or wholesaling of alcoholic beverages, when displayed at the place of business of such person is hereby authorized.

(d). The use of printed or lithographed advertising material inside a premise where there exists a permit or license to sell alcoholic beverages at retail, when used as part of a temporary window display of alcoholic beverages for sale on the licensed premise, is hereby authorized, provided advertising material so used may not be placed within eighteen (18) inches of any window or opening facing upon a street or highway.

(e). The Board shall have the power and authority and it is hereby made its duty to adopt rules and regulations authorizing such use of business cards, menu cards, stationery, and service equipment or delivery equipment bearing advertisement of alcoholic beverages as the Board may find not to be in conflict with the purposes of this Act.¹

3. It shall be unlawful for any person to erect or maintain any billboard or electric sign in violation of any ordinance of an incorporated city or town.

It shall be unlawful for any person to erect or maintain any billboard or electric sign within an area or zone where the sale of alcoholic beverages is prohibited by law.

It shall be unlawful for any person to erect or maintain any billboard or electric sign within two hundred (200) feet of where there exists a permit or license to sell the advertised beverage at retail, except by express permission of the Administrator, given after determination by the Administrator that the erection of any such billboard or electric sign does not serve to advertise or direct patronage to any particular place of business licensed to sell any alcoholic beverage at retail.

4. It shall be unlawful for any person to erect or maintain any billboard or electric sign within two hundred (200) feet of any place where there exists a permit or license to sell the advertised beverage at retail after the effective date of this Act, without first securing from the Texas Liquor Control Board a permit to erect or maintain such billboard or electric sign, provided no such permit shall be required for billboards or electric signs having a surface of one hundred eighty (180) square feet, or more, if not located within two hundred (200) feet of any place where there exists a license to sell the advertised beverage at retail. Application for any such permit shall be addressed to the Board or Administrator upon such form as may be prescribed and containing such information as may be deemed necessary by the Board or Administrator. The application shall be made under oath and shall state in addition to such other information as may be required by the Board, that the erection or maintenance of any such billboard or electric sign will not serve to advertise or direct patronage to any particular place of business licensed to sell any alcoholic beverage at retail.

The Board or Administrator shall refuse to issue a permit for the erection or maintenance of any billboard or electric sign if it finds any statement in the application therefor to be false; and the Board or Administrator shall grant the permit for erection or maintenance of any such billboard or electric sign if it finds all statements in the application therefor to be true, and if it finds that the erection or maintenance thereof would not be contrary to this Act or any lawful rule or regulation of the Board.

All billboards and electric signs authorized by this Act shall be subject to all applicable provisions of Section 24, Article II of the Texas Liquor Control Act.²

It shall be unlawful for any person to erect, maintain or display any outdoor advertising, billboard, or electric sign not conforming in all respects to the provisions of this Act; and any billboard or electric sign displayed contrary thereto is hereby declared illegal equipment and subject to seizure and forfeiture as provided for such action in respect to illicit beverages and other illegal equipment under the provisions of this Act.

The owner of any outdoor advertising, the erection, maintenance or display of which would be in violation of the provisions of this Section, shall be responsible for the removal thereof from public view within one hundred twenty (120) days from the effective date of this Section, and failure so to remove shall be a violation of this Act. The Board or Administrator shall have authority to grant a further time extension of one hundred (120) days in any case where removal within the one hundred twenty (120) day period may in the judgment of the Board or Administrator be impracticable.

5. Declaration of Policy. It is hereby declared that the excessive or indiscriminate display of outdoor advertising for alcoholic beverages, and the display of such advertising at retail establishments, is detrimental to the public interest, and that the use of billboards or electric signs of smaller surface than therein authorized encourages the excessive and indiscriminate use of outdoor advertising, and should be prohibited by law. As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 25½-A.

¹ Articles 666—1 et seq., 667—1 et seq.

² Article 667—24.

Approved and effective May 14, 1943.

Proceedings commenced and rights vested before 1943 amendment, see article 666—3 note.

Art. 667—25. Transportation of beer

(c). Common carriers shall be privileged to deliver beer in dry areas only when consigned to the holder of a local or general distributor's license, and when such distributor has previously declared his intention to transport the same to a licensed place of business in a wet area. The transportation of beer received by a distributor from a common carrier in a dry area shall be in strict accordance with the requirements of this section. Added Acts 1943, 48th Leg., p. 509, ch. 325, § 25.

Approved and effective May 14, 1943.

Art. 667—26. Penalty

Conviction upon criminal prosecution for any violation of this Article shall require assessment of penalty or penalties as provided in Section 41, Article I of this Act.¹ As amended Acts 1943, 48th Leg., p. 509, ch. 325, § 21.

¹ Article 666—41.

Approved and effective May 14, 1943.

TITLE 12—PUBLIC HEALTH

CHAPTER ONE—ACTS INJURIOUS TO HEALTH

Art.

698b. Pollution of public bodies of surface water prohibited [New].

Arts. 697-698a. Repealed. Acts 1943, 48th Leg., p. 418, ch. 285, § 7. Eff. 90 days after May 11, 1943, date of adjournment

Pollution of surface waters prohibited, see article 698b.

Art. 698b. Pollution of public bodies of surface water prohibited

Section 1. It shall be unlawful for any person, firm, corporation, association, town, city or other political subdivision of this State, or any agent, officer, employee or representative of any person, firm, corporation, association, town, city or other political subdivision of this State to pollute any public body of surface water of this State.

Sec. 2. "Pollute" is hereby defined to be the throwing, discharging or otherwise permitting to reach or to be introduced into any public body of surface water of this State any substance, material or thing in such quantity that the said water is thereby rendered unfit for one or more of the beneficial uses for which such water was fit or suitable prior to the introduction of such substance, material or thing, or is thereby rendered harmful to public health, game birds or game animals, fish or other edible aquatic animals, or endangers any wharf, or endangers or hinders the operation of any boat, or renders insanitary or unclean any bathing beach.

Sec. 3. The term "public body of surface water of this State" shall include all surface creeks, rivers, streams, bayous, lagoons, lakes and bodies of surface waters that are fed by a stream or are subject to overflow from or into a stream which are the property of the State of Texas or any subdivision thereof, and all portions of the Gulf of Mexico within the gulfward boundary of the State of Texas and all inland waters of the State of Texas in which the tide ebbs and flows.

Sec. 4. The provisions of this Act shall not be applicable to any municipal corporation which discharges its sewerage into the tide waters of the State of Texas at a point where the tide ebbs and flows, provided that such discharge does not render such water harmful to public health, oyster beds, fish life or bathing places in such waters.

Sec. 5. Any person, firm, corporation, association, city, town, or other political subdivision of this State, or any agent, officer, employee, or other political subdivision of this State who violates any provision of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than One Hundred Dollars (\$100), nor more than Two Hundred Dollars (\$200), and each day that such a violation is committed shall constitute a separate offense.

Sec. 6. In so far as concerns the protection of fish and other edible aquatic animals, the Game, Fish and Oyster Commission, or the duly authorized deputies thereof, are especially charged with enforcement of this Act, and all fines imposed for violation of this Act, and any fees of the arresting officers, shall be remitted to the Game, Fish and Oyster

Commission, and shall be deposited in the State Treasury to the credit of the General Fund. Acts 1943, 48th Leg., p. 418, ch. 285.

Approved May 8, 1943.

Effective 90 days after May 11, 1943 date of adjournment.

Section 7 of the Act of 1943 repealed articles 697, 698 and 698a.

Section 8 read as follows: "Should any section, sentence, clause, phrase or word of this Act be held invalid by a Court of competent jurisdiction, it is hereby declared to be the legislative intent that the remaining portions of the Act shall not be affected thereby but shall remain in full force and effect after omitting such invalid section, sentence, clause, phrase or word."

Section 9 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing that it shall be unlawful for any person, firm, corporation, association, town, city or other political

subdivision of this State or any agent, officer, employee or representative of same to pollute any public body of surface water of this State; defining the term "pollute"; defining the term "public body of surface water of this State"; providing certain exceptions to this Act; prescribing penalties for the violation of this Act; providing for the enforcement of this Act; prescribing certain duties for State Officials; providing for the disposition of fines and fees under this Act; expressly repealing Articles 697 and 698 of the Penal Code of Texas of 1925 and Chapter 42, Acts of the First Called Session of the Forty-second Legislature; providing that any section, sentence, clause, phrase or word of this Act shall be severable; and declaring an emergency. Acts 1943, 48th Leg., p. 418, ch. 285.

Polluting public body of water, see, also, Vernon's Rev.Civ.St. art. 4444.

CHAPTER TWO—UNWHOLESOME FOOD, DRINK OR MEDICINE

Art. 711. Self-rising flour

Flour and bread, manufacture, baking and sale, see Vernon's Rev.Civ.St. art. 4476a.

CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art. 725b. Narcotic drug regulations; definitions

Manufacturers and wholesalers

Sec. 3. Repealed. Acts 1943, 48th Leg., p. 703, ch. 391.

Repeal of section 3 was filed without the governor's signature, May 18, 1943 and effective 90 days after May 11, 1943, date of adjournment.

Amendment Effective Sept. 1, 1943. Effective Sept. 1, 1943, section 1-a of the amendatory Act of 1941, Acts 1941, 47th

Leg., p. 647, ch. 392, repealed the amendment by section 1 of the same Act and, in lieu thereof, amended section 8 of this article to read as therein set out. However, the amendment by section 1-a of the 1941 Act was repealed by Acts 1943, 48th Leg., p. 346, ch. 225, § 2.

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 (1) 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 ($\frac{1}{2}$) of a grain of morphine or any of its salts; or (c) two (2) grains of codeine or any of its salts; or (d) one-fourth ($\frac{1}{4}$) of a grain of heroin or any of its salts; or (e) 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. Provided further, that any person may purchase at any time one ounce of paregoric without a doctor's prescription. As amended Acts 1943, 48th Leg., p. 346, ch. 225, § 1.

Approved May 6, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 repealed Acts 1941, 47th Leg., p. 647, ch. 392, § 1-a, which amended section 8 of this article.

Section 3 repealed all conflicting laws and parts of laws.

Section 4 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

CHAPTER FOUR—BARBER SHOPS AND BEAUTY PARLORS

Art. 734b. Hairdressers and cosmetologists

Non residents

Sec. 14. Non-resident hairdressers or cosmetologists will be granted a Texas license, which upon compliance with all provisions of this Act shall extend for the duration of the present war and national emergency, upon presentation of an application for a license which shall be accompanied by a health certificate as required of all applicants, including a Wassermann or other laboratory tests, a license from any other State which is up to date, and a fee of Ten Dollars (\$10). Provided that the requirements of such other State of an applicant for examination shall be equal to and as stringent as the requirements of the State of Texas for an applicant for examination, and providing that such other State shall grant equal privileges to holders of a Texas license. As amended Acts 1943, 48th Leg., p. 639, ch. 365, § 1.

Approved and effective May 22, 1943.

Terms of certificate of registration; persons in armed forces and others, renewal license of

Sec. 18. The first certificate of registration and license shall be valid until August 31, 1936. Thereafter no certificate or license shall be issued for a longer period than one year and shall expire on the thirty-first day of August of the year for which they are issued unless renewed prior to that date. The holder of an expired certificate or license may have said certificate or license restored within one year after the date of expiration, upon the payment of the required renewal fee and satisfactory proof of his or her qualifications to resume practice; however, the holder of a certificate or license on or since September, 1940, who is now serving as a member of the Armed Forces of the United States of America, the Armed Forces Reserve of the United States of America, or as a member of the Auxiliaries thereto, or who is doing defense work, or holding a Civil Service appointment, shall be granted a renewal license upon the payment of the required renewal fee without any examination within one year after the following:

1. Honorable discharge from the Armed Forces of the United States of America; or from the Armed Forces Reserve of the United States of America; or from any of the Auxiliaries thereto.
2. Release from Defense work.
3. Release from Civil Service appointment.

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

(a) The annual license fee for conducting a beauty parlor shall be the sum of Five Dollars (\$5), provided, however, that in event any beauty parlor is conducted and operated by one person only, then and in that event no fee shall be charged for conducting such beauty parlor, but the operator thereof shall be liable only for the Three-Dollar annual registration fee hereinafter provided, and the annual license fee for operators to work at the trade or practice of beauty culture shall be the sum of Three Dollars (\$3) and the annual registration fee for manicurists shall be Two Dollars and Fifty Cents (\$2.50), and the annual registration fee for an instructor shall be Ten Dollars (\$10) and the annual registration fee to conduct a beauty school shall be One Hundred Dollars (\$100).

(b) It is intended by this Act to levy and collect from the operator of any beauty parlor conducted and operated by one person only, no tax or fee for examination charge in excess of the Three-Dollar fee hereinbefore provided, any other Section of this Act to the contrary notwithstanding.

(c) The establishment of itinerant shops is hereby expressly prohibited, and it shall be unlawful for any person, firm or corporation to operate a beauty shop as defined in this Act, unless the same is a bona fide establishment with a permanent and definite location. Any license granted under the terms of this Act shall permit the licensee to practice in only such bona fide established beauty shop; provided, however, that nothing in this Act shall prohibit the removal or change of location of a beauty shop, provided such move or change is made in good faith with the intention of definitely and permanently locating elsewhere; and provided that nothing contained herein shall in anywise prevent a licensee from practicing in the homes of customers if said licensee works in a bona fide established shop as defined in this Act. Provided further, that nothing in this Act shall prohibit the establishment of chain beauty shops which have a definite and permanent location and have complied with all the other terms of this law. As amended Acts 1943, 48th Leg., p. 639, ch. 365, § 2.

Approved and effective May 22, 1943.
Section 3 of the amendatory Act of 1943
declared an emergency and provided that

the Act should take effect from and after
its passage.

CHAPTER SEVEN—DENTISTRY

Art. 752c. Licenses, refusing, revoking, cancelling, and suspending of Penalty

Sec. 7. Repealed. Acts 1943, 48th Leg., p. 576, ch. 340, § 8.

Repeal of section 7 was approved and
effective May 15, 1943.

Art. 753. Exception

Nothing in this Chapter applies to students of a reputable dental college who perform their operations without pay except for actual cost of materials, in the presence of and under the direct personal supervision of a demonstrator or teacher who is a member of the faculty of a reputable dental college, nor to persons doing laboratory work on inert matter only, and who do not solicit or obtain by any means, work from a person or persons not a licensed dentist actually engaged in the practice of dentistry; and, who do not act as the agents or solicitors or have any interest whatsoever, in, any dental office, practice, or the receipts therefrom. Physicians and surgeons may in the regular practice of their profession, extract teeth or make applications for the relief of pain.

Nothing in this Chapter applies to one legally engaged in the practice of dentistry in this state at the time of the passage of this law, except as hereinbefore provided. As amended Acts 1943, 48th Leg., p. 576, ch. 340, § 5.

Approved and effective May 15, 1943.

Art. 754. Punishment

Any person who shall violate any provision of this Chapter shall be fined not less than One Hundred (\$100.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, or be confined in jail from one to six (6) months, or both. Each day of such violation shall be a separate offense. As amended Acts 1943, 48th Leg., p. 576, ch. 340, § 6.

Art. 754a. Persons regarded as practicing dentistry

Any person shall be regarded as practicing dentistry within the meaning of this Chapter:

(1) Who publicly professes to be a dentist or dental surgeon or who uses or permits to be used for himself or for any other person, the title of "Doctor", "Dr.", "Doctor of Dental Surgery", "D.D.S.", "Doctor of Dental Medicine", "D. M. D.", or any other letters, titles, terms or descriptive matter which directly or indirectly represents him as being able to diagnose, treat, remove stains or concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, alveolar process, gums or jaws.

(2) Who shall offer or undertake, by any means or methods whatsoever to diagnose, treat, remove stains or concretions from teeth, or shall treat, operate or prescribe, by any means or methods, for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, alveolar process, gums or jaws, and charge therefor, directly or indirectly, money or other compensation.

(3) Any person, firm, association, or corporation who professes, advertises, sells, offers, or undertakes to construct, produce, reproduce, make, repair; fit, adjust, substitute, or deliver to or accepts from the general public, any model or impression of the human mouth, teeth, alveolar process, gums or jaws, or any prosthetic or orthodontia appliance, denture, or structure.

(4) Any one who owns, maintains or operates any office or place of business where he employs or engages, under any kind of contract whatsoever, any other person or persons to practice dentistry as above defined shall be deemed to be practicing dentistry himself and shall himself be required to be duly licensed to practice dentistry as hereinabove defined, and shall be subject to all of the other provisions of this Chapter, even though the person or persons so employed or engaged by him shall be duly licensed to practice dentistry as hereinabove defined. As amended Acts 1943, 48th Leg., p. 576, ch. 340, § 7.

CHAPTER EIGHT—PHARMACY

Art. 758a. Display of license; application for renewal; penalty for violating Pharmacy Act

Every license to practice pharmacy, and every license to any proprietor or employee to conduct a drug store, pharmacy or factory, and every renewal of such license or annual renewal certificate shall be conspicuously displayed in the place of business of which the pharmacy or person to whom it is issued is the owner or manager, or in which he is employed.

Every licensed pharmacist who desires to continue in the practice of his profession shall within thirty (30) days next preceding the expiration of his license or annual renewal certificate file with the Board his application for the renewal thereof.

"If any pharmacist shall fail for a period of sixty (60) days after the expiration of his license or annual renewal certificate to make application to the Board for its renewal, his name shall be stricken from the register of licensed pharmacists. The name of the responsible manager of every pharmacy, drug store or apothecary shop shall be conspicuously displayed outside of such place of business.

"Any person not being licensed as a pharmacist who shall compound, mix, blend, dispense, prepare or sell at retail any drugs, medicines, poisons or pharmaceutical preparations upon a physician's prescription, or otherwise, and whoever, being the manager or owner of the drug store, pharmacy or factory, or other place of business, shall manufacture, or permit anyone not licensed as a pharmacist to compound, mix, blend, dispense any drugs, medicines, poisons or pharmaceutical preparations, on physician's prescription, contrary to any of the provisions of this Act, shall be subject to the penalties of this Act.

"Any license or permit or renewal certificate obtained through fraud or by false or fraudulent representations shall be void and of no effect in law, and shall be subject to the penalties provided for in this Act.

"Any person who shall make any false or fraudulent representations for the purpose of procuring a license or renewal certificate, either for himself or for another, shall be subject to the penalties provided for in this Act.

"Any person being the holder of a pharmacist's license or renewal certificate who shall fail to display such license or renewal certificate in a conspicuous position in the place of business to which such license or permit relates, or in which the holder thereof is employed, shall be subject to the penalties provided for in this Act, and each day such license or renewal certificate is not displayed shall be a separate offense.

"Any person being the holder of any license or renewal certificate or store or manufacturer's permit under this law who shall, after the expiration of such license or manufacturer's permit, drug store or pharmacy permit, fail to renew same, and who continues to carry on the business for which such license, renewal certificate or permit was granted shall be subject to the penalties provided for in this Act.

"Any person, firm, corporation, partnership, or joint stock company violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than Fifty (\$50.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, or be confined in jail for not less than one (1), nor more than six (6) months, or by both such fine and imprisonment. Each day of such violation shall be a separate offense.

"It shall be unlawful for any member of the Board to permit any applicant to take the examination herein provided for, unless such applicant furnishes written proof to said Board that such applicant is qualified as herein provided in this Act to take such examination. Any member of the Pharmacy Board violating this Section shall be guilty of a misdemeanor and shall be punished as provided in the preceding paragraph. As amended Acts 1943, 48th Leg., p. 710, ch. 395, § 17.

Filed without the Governor's signature,
May 31, 1943.

Effective 90 days after May 11, 1943,
date of adjournment.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

CHAPTER SIX—GAME, FISH AND OYSTERS

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| <p>Art.
909a—1. Possession in public or private storage plant of game birds or water fowls permitted [New].</p> <p>923qa—7. Beaver or otter; license required to trap outside county of residence [New].</p> <p>978f—2. Cooperative agreements with United States to protect wild life on National Forest lands in San Augustine and Sabine counties [New].</p> | <p>Art.
978l—2. Open season for and possession of game mammals, game birds and fur-bearing animals in portion of state west of Pecos River; violations [New].</p> <p>978l—3. Fishing in portion of State inundated by dam on Red River near Denison [New].</p> |
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Art. 881b. Open season and bag limit for migratory game birds; regulations

Section 1. The purpose of this Act is to provide for the making of suitable regulations to govern the taking of certain migratory game birds, the taking of which is also governed by regulations made under the authority of the United States Government because of treaties affecting the conservation of migratory game birds between the United States Government and the Governments of Great Britain and the United States of Mexico. Such regulations as may be provided for under the provisions of this Act shall apply only to wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jack snipe, woodcock, mourning doves, and white-winged doves, which for the purpose of this Act are hereafter referred to as migratory game birds.

Acts prohibited; definitions

Sec. 2. It shall be unlawful for anyone to hunt, take or pursue any migratory game bird at any time other than during the open season provided for taking, hunting or pursuing of such game bird, or to have in possession or retain such game bird in excess of the bag limit or time provided therefor, or to kill in any one day, or in any one week or in any open season any migratory game bird in excess of the bag limit provided for such period; or to take or attempt to take any migratory game bird by any means, method or device other than that which may hereafter be permitted for the taking of same. For the purpose of this Act, "open season" is defined as the period of time when it shall be lawful to take, kill or pursue or attempt to take or kill any of the game birds named in this Act, and "bag limit," for the purpose of this Act, is defined as the maximum number of game birds or aggregate of same of the species named in this Act that any person may kill, take or possess during any period for which such a bag limit is provided.

Penalty

Sec. 3. Any person who takes, kills, pursues or attempts to take or kill any migratory game bird by any means or device other than that permitted under the authority given in this Act, or at any time other than during the open season provided for same; or any person who kills any migratory game bird in excess of the bag limit provided for the killing of same, or any person who possesses any migratory game bird in excess of the limit provided for the possession of same, or any person who retains such birds in his possession beyond the period prescribed for the reten-

tion of same, or any person who otherwise takes, kills, possesses or retains any migratory game bird except in accordance with the permission given because of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be fined in a sum not less than Twenty-five Dollars (\$25), nor more than One Hundred Dollars (\$100), and shall automatically forfeit his right to hunt with a gun in this State for a period of one (1) year following the date of his conviction; and further provided that each migratory game bird killed or possessed or retained in violation of any provision of this Act shall constitute a separate offense.

Repeals

Sec. 4. All laws or parts of laws of this State, in so far as they provide an open season, bag limit, possession limit, retention or storage limit, or govern the means or devices that may be used for taking migratory game birds or any of them, be and the same are hereby repealed.

Duties of Game, Fish and Oyster Commission

Sec. 5. The Game, Fish and Oyster Commission of the State of Texas is hereby charged with the duty of providing the open season, bag limits, possession limits and retention limits for the taking, possession and retention of migratory game birds, and to declare the means, methods and devices by which such birds may be taken. An open season shall be provided for only such length of time as is justified by the supply of the species of migratory game birds affected in this State, or in the zone or section of the State to which such open season shall apply, and any bag limit or possession limit for any species of migratory game bird shall be provided so as to permit the most equitable harvest in this State of the species affected and which will grant only such privileges as experience has proven will not prevent a future normal supply of game birds of the species affected in this State or in the zone or section of the State to which such regulations may apply.

Investigations

Sec. 6. It shall be the duty of the Game, Fish and Oyster Commission to make such investigations and procure such information as will permit it to proclaim open seasons and bag limits for any migratory game bird when such is justified by the supply of same in order that said Commission shall carry out the mandate of the Legislature as expressed in this Act.

Proclamation of open season, bag limit etc.

Sec. 7. Any open season, bag limit, possession limit, means, method or device, or retention limit for migratory game birds shall be issued by the Game, Fish and Oyster Commission in the form of a suitable proclamation which regulations shall become effective on the day named therein, which shall not be earlier than ten (10) days after same is issued. Such a regulation shall remain in full force and effect for the time specified therein or until same is suspended or amended by the Game, Fish and Oyster Commission after the manner of issuing the original proclamation. Whenever any proclamation as authorized under the provisions of this Act is issued by the Game, Fish and Oyster Commission the same shall be incorporated in the minutes of the meeting at which it was adopted, and a copy of same shall be filed in the office of the Secretary of State and a copy mailed to each County Clerk and each County Attorney of this State for filing in their respective offices.

Suit to contest validity of regulations

Sec. 8. Any interested party affected by the conservation regulations of this State, promulgated by the Game, Fish and Oyster Commission as directed in this Act, and who may be dissatisfied therewith, shall have a right to file a suit in a Court of competent jurisdiction in Travis County, Texas, and not elsewhere, against the Commission as defendant to test the validity of said regulations or any of them. Such suit shall be filed for trial and be determined as expeditiously as possible, and no postponement thereof or continuance shall be granted except for reasons deemed imperative by the Court. In all trials under this Section, the burden of proof shall be upon the party complaining of such regulations, and such regulations or order so complained of shall be prima facie valid until otherwise shown. As amended Acts 1943, 48th Leg., p. 376, ch. 252, § 1.

Approved May 6, 1943.
Effective 90 days after May 11, 1943,
date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 909a. Repealed. Acts 1943, 48th Leg., p. 106, ch. 77, § 1. Effective 90 days after date of adjournment

This article derived from Act 1941, 47th Leg., p. 700, ch. 435, relating to possession and storage of deer after closed season.

Art. 909a—1. Possession in public or private storage plant of game birds or water fowls permitted

It shall be lawful for any person to have in his possession or in any public or private storage plant any game birds, or water fowls, or migratory water fowls at any time, not in excess of the number or amount permitted by law, and provided such game birds, water fowls or migratory water fowls were killed or taken during the open season for same. All laws and parts of laws in conflict with this section are hereby repealed. Acts 1943, 48th Leg., p. 106, ch. 77, § 1a.

Approved March 25, 1943.

Effective 90 days after May 11, 1943,
date of adjournment.

Section 1 of Act of 1943 repealed art. 909a.

Section 2 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act repealing House Bill No. 153, Acts of the Regular Session of the 47th

Legislature; and providing that it shall be lawful for any person to have in his possession or in any public or private storage plant any game birds, or water fowls, or migratory water fowls within the limits prescribed by law, if such birds, or fowls were killed or taken during open season; repealing all laws in conflict therewith; and declaring an emergency. Acts 1943, 48th Leg., p. 106, ch. 77.

Art. 923qa—7. Beaver or otter; license required to trap outside county of residence

Section 1. It shall be unlawful for any resident of this State to trap or attempt to take or trap beaver or otter outside the county of his residence without first obtaining from the Game, Fish and Oyster Commission, or one of its authorized agents, a Beaver-Otter Trapping License, for which he shall pay the sum of Fifty Dollars (\$50), Fifty (50) Cents of which sum shall be retained by the officer issuing said license, balance of which shall be promptly remitted to the Game, Fish and Oyster Commission and deposited in the State Treasury to the credit of the Special Game Fund, where it shall be used for the purposes provided by law.

Sec. 2. It shall be unlawful to take or attempt to take or trap any beaver or otter in this State, or for any person to sell or offer for sale, the pelt of any beaver or otter for a period of five (5) years from and after the passage of this Act. Providing, however, that it shall be lawful to take or trap beaver and sell the pelts of same in that portion of the State of Texas west of the Pecos River and in Val Verde and Kimble Counties. The open season for taking or trapping beaver in that portion of the State west of the Pecos River and in Val Verde and Kimble Counties shall be only during the period January 1st to January 15th of each year, and it shall be unlawful for any person during any open season provided for in this Section of this Act to take more than three (3) beaver.

Sec. 3. Any person who takes any beaver at any time it is unlawful to do so, or attempts to sell the pelt of a beaver in any county of this State unless same is permitted under the provisions of this Act, or any person who otherwise violates any provision of this Act, shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be fined in a sum not less than One Hundred Dollars (\$100), nor more than Two Hundred Dollars (\$200). Acts 1943, 48th Leg., p. 287, ch. 183.

Approved and effective April 27, 1943.
 Section 4 of the Act of 1943 repealed 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 a special license for those who trap beaver or otter outside the county of their residence; making it unlawful to trap beaver or otter for a

period of five (5) years except in that portion of the State west of the Pecos River and in Val Verde and Kimble Counties during the period January 1st to January 15th of each year; providing it shall be unlawful for any person during any open season provided for in this Act to take more than three (3) beaver; providing a penalty for violations of this Act; repealing conflicting laws; and declaring an emergency. Acts 1943, 48th Leg., p. 287, ch. 183.

Art. 952. Fish in certain counties

Section 1. Whoever shall barter or sell or offer for barter or sale any bass, perch, crappie, or catfish taken from any of the fresh-water streams of the Counties of Guadalupe, Bexar, Kerr, Bandera, Medina, and Wilson shall be fined not less than Five Dollars (\$5), nor more than Fifty Dollars (\$50). As amended Acts 1943, 48th Leg., p. 270, ch. 169, § 1.

Approved and effective April 26, 1943.

Section 2 of amendatory Acts of 1939 and of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 952d. Same; closed season

It shall be unlawful for any person, firm or corporation, or their agent, or agents, to take, catch, seine, entrap by any action, or to have in their possession any bass, perch, crappie or catfish, or any other fish taken from any of the waters described in Section 1 of said Act, the said Section 1 being Article 952a of the Penal Code of Texas, on and from the first day of March to the first day of May of any year. As amended Acts 1943, 48th Leg., p. 292, ch. 187, § 1.

Approved and effective April 27, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 978f—2. Cooperative agreements with United States to protect wild life on National Forest lands in San Augustine and Sabine counties

Section 1. The Game, Fish and Oyster Commission of Texas shall have the right and authority to enter into an agreement with the United States Government, or with the proper authority thereof, for the protection

and management of the wildlife resources of the National Forest lands under fence within the State of Texas situated within the Counties of San Augustine and Sabine, and known as the Sabine National Forest, and for the re-stocking of such lands with desirable species of game animals, game birds and other animals and fish.

Sec. 2. The Game, Fish and Oyster Commission of Texas shall have authority to prohibit all hunting and fishing within or upon any or all lands named in Section 1 of this Act for such period of time as may be necessary to safeguard any species of wildlife found thereon; shall have authority from time to time to prescribe open seasons for hunting and/or fishing therein, to prescribe the number, kind and size of all game and non-game animals, fish and birds that may be taken therefrom or thereon, and to prescribe the conditions under which all birds, animals and fish may be taken within said area.

Sec. 3. Any person violating any of the provisions of this Act or who shall hunt or fish upon said lands at any time other than the times specified by the Game, Fish and Oyster Commission, shall, upon conviction therefor, be fined in a sum of not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars. Acts 1943, 48th Leg., p. 344, ch. 224.

Approved May 6, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 4 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act authorizing the Game, Fish and Oyster Commission of Texas to enter into co-operative agreements with the United States for the protection and management of wildlife resources on certain National Forest lands in Texas situated in the

Counties of San Augustine and Sabine, and to re-stock and protect the same; authorizing the Game, Fish and Oyster Commission to close hunting and fishing therein, to prescribe the number and size of animals and fish to be taken and to provide conditions under which same may be taken; prescribing penalty for violations of the rules and regulations promulgated by the Game, Fish and Oyster Commission and for other purposes, and declaring an emergency. Acts 1943, 48th Leg., p. 344, ch. 224.

Art. 978j. Local game and fish laws

For fish and game laws applicable only to the named counties see notes under Vernon's Ann.Pen.Code, Art. 978j.

Art. 978l—2. Open season for and possession of game mammals, game birds and fur-bearing animals in portion of state west of Pecos River; violations

Section 1. This Act shall apply only to all that portion of the State of Texas lying west of the Pecos River.

Sec. 2. It shall be unlawful for any person to take, kill, or attempt to take or kill any game bird, game mammal, or to take the pelt of any fur-bearing animal that is named in this Act at any time other than the open season that may be provided for the hunting or taking of such species or pelts of same; or to take, kill or possess any game bird or game mammal that is named in this Act in excess of the bag limit or possession limit for such species. Any open season, bag and/or possession limit that may be justified shall be provided by the Game, Fish and Oyster Commission in obedience to the provisions of this Act.

Sec. 3. "Open season" is hereby defined as a period of time during which game birds, game mammals or the pelts of fur-bearing animals may be taken. "Bag limit" is defined as the number of game birds or game mammals that a person may kill in any day or during any open season. "Possession limit" is defined as the number of game birds or game mammals that a person may have in possession, in his own custody, in transit

in his behalf, or that may be held in the custody of another person, firm or corporation in his behalf.

Sec. 4. Wild deer. Any open season shall be within the period November 1st to December 31st, with bag and possession limit of not more than one mule or black-tailed deer, not more than two (2) of any other species of deer, nor more than two (2) in the aggregate of all species of wild deer.

Sec. 5. Black bear. Any open season shall be within the period November 1st to December 31st, and no person shall be permitted to kill or possess more than one black bear during any one season.

Sec. 6. Collared peccary. Any open season shall be within the period November 1st to December 31st, and no person shall be permitted to take, kill, or possess more than two (2) collared peccary during any one open season.

Sec. 7. Wild gray or cat and fox squirrels. Any open season shall be within the period May 1st to December 31st; bag limit not to exceed ten (10) to be taken or killed by any person in one day nor to exceed twenty (20) in possession by any person at any time.

Sec. 8. Wild turkeys. Any open season shall be within the period November 1st to December 31st, and no person shall be permitted to kill or possess more than three (3) wild turkeys during any one open season.

Sec. 9. Wild quail of all species. Any open season shall be provided for not to exceed sixty (60) days for any one species of quail during the period November 1st to January 31st; bag limit not to exceed twelve (12) quail killed in one day, nor shall any person be permitted to possess more than twenty-four (24) quail at any one time.

Sec. 10. Wild mourning doves. Any open season shall be within the period September 1st to January 15th. A bag limit may be provided of not to exceed fifteen (15) mourning doves to be killed in any one day, no more than ¹ thirty (30) to be possessed by any person at one time.

Sec. 11. White-winged doves. Any open season shall be within the period September 15th to October 15th, and no person shall be permitted to kill more than fifteen (15) white-winged doves in any one day or to have in his possession more than thirty (30) white-winged doves.

Sec. 12. Chachalaca. Any open season shall not be longer than ten (10) days within the period December 1st to December 31st, and no person shall be permitted to kill more than five (5) chachalaca in any one day or to possess more than one day's kill at any time.

Sec. 13. Rails and gallinules. Any open season shall be within the period September 1st to October 31st, and no person shall be permitted to kill more than fifteen (15) rails or more than fifteen (15) gallinules or an aggregate of more than fifteen (15) of both rails and gallinules in any one day or to possess at any time more than two days' kill of such birds.

Sec. 14. Wild plover. Any open season shall be within the period September 1st to October 31st, and no person shall be permitted to kill more than twelve (12) plover in any one day or to have more than one day's kill in his possession at any time.

Sec. 15. Prairie chickens. Any open season shall be not longer than ten (10) successive days within the period September 1st to October 31st. No person shall be permitted to kill more than ten (10) prairie chickens during any open season or to have in his possession at any time more than ten (10) prairie chickens.

Sec. 16. Prong-horned antelope. Any open season for this species shall be for a period of not more than ten (10) successive days within the month of October of any year. No person during any antelope open

season shall kill or attempt to kill more than one antelope, or shall have in his possession at any time more than one antelope that was killed in this State.

Sec. 17. Wild elk. Any open season for this species shall be for a period of not more than ten (10) successive days within the month of October of any year. No person shall be permitted to kill more than one elk during any open season or to have in his possession at any time more than one elk that was killed in this State.

Sec. 18. Fur-bearing animals—beaver, otter, fox, opossum, raccoon, mink, polecat or skunk, badger, muskrat, civet cat or ringtail. Any open season to permit trapping or the taking of pelts and sale of same of any of the fur-bearing animals named in this Section of this Act shall be within the period December 1st to March 1st.

Sec. 19. It shall be unlawful for any person to hunt, or attempt to hunt or take, any prong-horned antelope or wild elk until he has first obtained a currently valid hunting permit therefor, and for which he has paid a sum of Five Dollars (\$5). When any open season for killing antelope or elk is justified according to the provisions of this Act, the Game, Fish and Oyster Commission shall determine the number of elk or antelope that may be killed without detriment to the future supply, and shall issue permits only to this extent. The permits shall be available to applicants in such a way as to give all applicants an impartial opportunity to obtain such a permit to the extent of the total number issued. No person shall receive more than one permit. Each permit issued hereunder shall apply only to one county of this State, the name of which shall be written on the face of the permit by the issuing officer. The Game, Fish and Oyster Commission shall print the rules and regulations governing the hunting of antelope and wild elk on the face of all permits issued for the killing of these species. All money derived from the sale of antelope or elk hunting permits shall be deposited in the State Treasury to the credit of the Special Game Fund and shall be used for the purposes provided by law.

Sec. 20. All laws or parts of laws of this State, General or Special, in so far as they conflict with this Act or in so far as they provide an open season, bag limit, or possession limit governing the taking, killing or possession of any of the game species named in this Act, or prohibit the killing of same or trapping of fur-bearing animals or taking and selling the pelts of same or by the imposition of a closed season and apply to the portion of the State named herein, be and the same are hereby repealed.

Sec. 21. The Game, Fish and Oyster Commission of the State of Texas is hereby charged with the duty of making a continuous study of the supply of each of the species named in this Act and the factors limiting their increase. The Commission shall determine when any of such species, in the portion of this State named in this Act, is being reduced below immediate recuperative potentials by hunting, trapping, drought, disease, predation, agricultural pressure or other deleterious causes. Whenever the supply of any such species is sufficiently secure in any portion of the area named herein that a seasonal harvest will not prevent the re-establishment of normal numbers of the species, the Game, Fish and Oyster Commission, within the maximum limits prescribed in this Act, shall fix an appropriate open season, bag limit and possession limit to permit the hunting, trapping or harvest of any species herein named in said area or any portion of same to which this Act applies. When only one sex of a game species should be taken, it shall be so provided. It shall provide the hours of the day during which hunting of game species shall be permitted, and age or maturity limitations on the taking of such spe-

cies. All regulations issued hereunder shall be such as will grant the most reasonable and equitable privileges to the hunters and trappers of this State and at the same time safeguard the game and fur-bearing animal supply of this State. Regulations issued hereunder shall be continued only so long as the species affected by such a regulation is not being adversely affected thereby. When any open season, bag limit or other regulation is provided, the Game, Fish and Oyster Commission, as directed herein, shall immediately file a copy of same in the office of the Secretary of State and mail a copy to each County Attorney, County Clerk and Game and Fish Warden of this State, west of the Pecos River. Such regulation shall be published in the next succeeding edition of the Game and Fish Laws, or digest of same, that is published by the Game, Fish and Oyster Commission. Any open season or bag limit provided in accordance with the provisions of this Act, or any other regulations issued hereunder, shall be prima facie valid and shall continue in full force and effect until it is repealed or amended or until it is declared invalid by a Court of final jurisdiction.

Sec. 22. Any person who hunts, or attempts to hunt, kills or attempts to kill any game bird or game mammal or takes or attempts to take the pelt of any fur-bearing animals named in this Act at any time other than during the open season that may be provided for killing or taking of same, or any person who takes, kills or has in his possession any game bird or game mammal in excess of the bag limit or possession limit provided for same under the terms of this Act, or any person hunting any prong-horned antelope or wild elk without first obtaining the permit required therefor, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than Twenty-five Dollars (\$25), nor more than Two Hundred Dollars (\$200), and each bird, animal or pelt taken or possessed in violation of any provision of this Act shall constitute a separate offense.

Sec. 23. Any person who is convicted of violating any provision of this Act relating to game birds or game mammals, upon final conviction, shall surrender to the Court in which he is convicted his hunting license and in addition thereto forfeit his right to hunt with a gun in this State for a period of one year following the date of his final conviction. Any person who hunts, or attempts to hunt, with a gun during the period for which he has forfeited his hunting rights because of conviction under a provision of this Act upon conviction for such offense shall be fined in a sum not less than One Hundred Dollars (\$100), nor more than Two Hundred Dollars (\$200).

Sec. 24. If any portion of this Act should be held invalid or inoperative such determination shall not affect the validity of any remaining portion of this Act. Acts 1943, 48th Leg., p. 325, ch. 209.

¹ So in enrolled bill. Probably should read "than".

Approved May 1, 1943.

Effective Sept. 1, 1943.

Section 25 of Act of 1943 declared an emergency and provided that the Act should take effect from and after Sept. 1, 1943.

Title of Act:

An Act fixing the maximum time and limits under which certain game mammals, game birds, and fur-bearing animals, or the pelts thereof, of this State may be taken in all that portion of the State of Texas lying west of the Pecos River; defining certain terms; providing maximum bag and possession limits for any open game

season that may be provided hereunder; providing for the issuance of special permits for the taking of prong-horned antelope and wild elk when any season may be provided for taking these animals with certain requirements and restrictions; providing for deposit of proceeds from such permits in State Treasury; providing that the Game, Fish and Oyster Commission shall declare the open seasons and bag limits within the maximum time and numbers provided in this Act after they have made the studies required under the provisions of this Act and have found that such open seasons and bag limits are

justified by the supply in the locality for which such open season is provided and shall comply with special regulations therefor; providing a penalty for violation of any portion of this Act; providing for forfeiture of hunting license under certain conditions; providing penalty for hunting

after said forfeiture; repealing all laws providing an open season or bag limit or a closed season for any of the birds or mammals named in this Act; providing a saving clause; and providing an emergency and the effective date of this Act. Acts 1943, 48th Leg., p. 325, ch. 209.

Art. 978—3. Fishing in portion of State inundated by dam on Red River near Denison

Section 1. This Act shall apply only to that portion of the State of Texas inundated by the waters of the Red River and its tributaries that are impounded by a dam across the channel of said River near Denison, Texas, and it shall apply also to any other portion of that area of land acquired or that may hereafter be acquired by the United States Government for the operation of a reservoir on the Red River beginning near Denison, Texas.

Sec. 2. In that portion of the State of Texas referred to in Section 1 of this Act, it shall be unlawful to take or attempt to take any fish or game or to use any means, method or device in taking or attempting to take any fish or game except during such times and by such means, methods or devices and in such numbers as may be permitted in regulations issued under the directions and by the authority given in this Act.

Sec. 3. All laws or parts of laws in this State, in so far as they may conflict with this Act, or in so far as they regulate or restrict the taking of any game or fish in that portion of this State referred to in Section 1 of this Act, be and the same are hereby repealed.

Sec. 4. The Game, Fish and Oyster Commission of the State of Texas shall make a continuing study of the game and fish in that portion of the State of Texas described in Section 1 of this Act and the factors governing the abundance of any species of game or fish in said area. Whenever it is found that the supply of any species of game or fish is sufficient in said area to permit an annual harvest thereof, the Game, Fish and Oyster Commission shall provide suitable regulations granting an open season for taking such species and said regulations shall specify the means, methods or devices that may be used in taking same and the daily bag or creel limit and the possession limit which shall govern the numbers that may be taken in any one day or that may be possessed at any one time. Any regulation issued hereunder shall be such as will give the most equitable and most liberal privileges that may be permitted by the supply of the species of game or fish affected and which at the same time is in consonance with sound conservation practices.

Sec. 5. Before any regulations are issued under the authority given in this Act a public hearing shall be held in some city or town within twenty-five (25) miles of the area referred to in Section 1 of this Act. Notice shall be given of such public hearing ten (10) days in advance of said hearing. At such hearings any interested person shall be given an opportunity to inform the Game, Fish and Oyster Commission or its representatives of facts pertaining to the game or fish supply in the area referred to in Section 1 of this Act and of recommended regulations that may be made under the authority given in this Act in the public interest.

Sec. 6. Any regulation issued hereunder shall be effective on the date and for the period specified therein, but before such regulation shall become effective a copy of same shall be filed in the office of the Secretary of State and in the office of the County Clerk of each County in which a portion of the area named in Section 1 of this Act is situated and after the substance of said regulation is published in a newspaper in each

County in which a portion of the area referred to in Section 1 of this Act is situated in the State of Texas.

Sec. 7. Any person who takes or attempts to take or possess any game or fish, or any person who uses any method or device for taking or attempting to take any game or fish from the area described in Section 1 of this Act except when he does so under the authority granted in a regulation issued by the Game, Fish and Oyster Commission and then in effect, shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay a fine in a sum not less than Ten Dollars (\$10), nor more than One Hundred Dollars (\$100).

Sec. 8. It is specifically provided that this Act shall remain in full force and effect until a proposed compact between the State of Texas and the State of Oklahoma to govern the recreational use of the area referred to in Section 1 of this Act is finally completed and put into operation. After said compact is put into operation, this Act shall be of no further force or effect. Acts 1943, 48th Leg., p. 333, ch. 213.

Approved May 3, 1943.

Effective 90 days after May 11, 1943, date of adjournment

Section 9 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act applying to that portion of the State of Texas inundated by a dam on the Red River near Denison, Texas, and including lands purchased by the Federal Government for the operation of a reservoir on the Red River; providing for the repeal of all laws or parts of laws governing the taking of game or fish in said area; providing that suitable regulations permit-

ting the taking of game and fish as justified by the supply of same shall be made by the Game, Fish and Oyster Commission of the State of Texas; providing for public hearings; providing for the filing and publication of any regulations made hereunder; providing a penalty to be applied to any person who takes or attempts to take game except when same is taken by means, methods or devices and within the limits given in regulations promulgated under the directions given in this Act; providing for the effective date of this Act and for the time it shall remain in effect; and declaring an emergency. Acts 1943, 48th Leg., p. 333, ch. 213.

TITLE 14—TRADE AND COMMERCE

CHAPTER FIVE—WEIGHTS AND MEASURES

Art.

1042b. Sale of wheat and other flours or corn meal in other than standard packages forbidden [New].

Art. 1042a. Repealed. Acts 1943, 48th Leg., p. 694, ch. 385, § 6. Effective May 18, 1943

Sale in other than standard packages under 1943 act, see article 1042b.

Art. 1042b. Sale of wheat and other flours or corn meal in other than standard packages forbidden

Section 1. The standard measures of wheat flour, whole wheat flour, graham flour, other cereal flour, and corn meal, except such cereals sold as grits, shall be packages containing net avoirdupois weights of two, five, ten, twenty-five, fifty, one hundred, one hundred fifty, and two hundred pounds.

Sec. 2. It shall be unlawful for any person, firm, association, or corporation to pack for sale, sell or offer for sale in the State of Texas any wheat flour, whole wheat flour, graham flour, other cereal flour, or corn meal except in packages (including barrels, sacks, bags, cartons and other containers) of the above standard net weights.

Sec. 3. Each package of wheat flour, whole wheat flour, graham flour, other cereal flour and corn meal shall have the net weight, name of manufacturer (meaning the person, firm, association, or corporation which processes the wheat or other cereal into flour, or which processes the corn into meal) and the name of the place where milled, printed or plainly marked on it in letters and figures clearly readable; and that it shall be unlawful for any wheat flour, whole wheat flour, graham flour, other cereal flour or corn meal, to be packed for sale, offered for sale or sold within the State of Texas unless it shall be so labeled. Provided, however, that reasonable rules and regulations for the efficient enforcement of this Act, not inconsistent herewith, and including reasonable variations or tolerances, shall be made by the Commissioner of Agriculture.

Sec. 4. The provisions of this Act shall not apply to the retailing of wheat flour, whole wheat flour, graham flour, other cereal flour or corn meal direct to the consumer from bulk stock, nor to sales of flour to bakeries for exclusive use in such bakeries, nor to the exchange of flour or meal for wheat or corn by grist mills and other mills grinding for toll for producers; and that nothing herein contained shall be held to apply to any product such as prepared pancake flour, cake flour or other specialty, packed and distributed in identified original package, the net contents of which are five pounds or less.

Sec. 5. Any violation of this Act shall be a misdemeanor, and upon conviction the offender shall be fined not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars for each offense. Acts 1943, 48th Leg., p. 694, ch. 385.

Filed without the Governor's signature, May 18, 1943.

Effective May 18, 1943.

Section 6 of the Act of 1943 read as follows: "House Bill No. 601, Chapter 237, Acts of the Regular Session of the 44th

Legislature, and all other laws and parts of laws in conflict herewith, are hereby specifically repealed; provided that all persons, firms, associations or corporations having on hand at the time this Act goes into effect packages (including sacks, bags,

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

cartons and other containers) of the sizes prescribed by House Bill No. 601, Chapter 237, Acts of the Regular Session of the 44th Legislature, shall, within ten days after said Act goes into effect, report to the Commissioner of Agriculture of the State of Texas under oath the exact number of such packages then on hand, and shall be permitted to pack for sale, sell, and offer for sale wheat flour, other cereal flour and corn meal in such packages so on hand and of the sizes prescribed by said Chapter 237, Regular Session of the 44th Legislature, and the use thereof until such packages shall be exhausted shall not be unlawful, nor in violation of the provisions of Section 1 of this Act; provided further, that if such packages are not used on or before January 1, 1944, the person, firm, association or corporation having such unused packages on hand shall furnish under oath within ten days from such date to the Commissioner of Agriculture of the State of Texas the number of packages still on hand, and the Commissioner of Agriculture shall grant such person, firm, association or corporation an additional six months from January 1, 1944, in which to use such packages."

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 for any person, firm, association or corporation to pack for sale, sell, or offer for sale any wheat flour, whole wheat flour, or corn meal, except such cereals sold as grits,

except in standardized packages; providing for the size and net weight of said packages; providing for the net weight, name of manufacturer and the name of the place where milled to be printed on the outside of each package, and making it unlawful for any wheat flour, whole wheat flour, graham flour, other cereal flour, or corn meal to be packed for sale, offered for sale or sold within this state unless it shall be so labeled; providing for establishment of rules and regulations including certain variations or tolerances; providing for exceptions to this Act of direct sales from bulk stock to the consumer, direct sales to bakeries for exclusive use in such bakeries, of the exchange of flour or meal for wheat or corn, and such prepared products of wheat or corn selling in less than five pound lots; providing for the violation of this Act to be a misdemeanor and fixing the penalty for such violations; providing for the repeal of House Bill No. 601, Chapter 237, Acts of the Regular Session of the 44th Legislature, Regular Session, 1935, and all other laws or parts of laws in conflict herewith; providing for reporting under oath to the Commissioner of Agriculture of the State of Texas all packages on hand when this Act becomes effective, and permitting use of such packages to January 1, 1944, and requiring Commissioner of Agriculture to grant such person, firm, association or corporation additional six months to use up supply on hand; and declaring an emergency. Acts 1943, 48th Leg., p. 694, ch. 385.

Art. 1057c. Inaccurate samples or false determinations by Babcock test

(a) It shall be unlawful for any person, either for himself or another or any person, firm, association, or corporation, either by himself or agent, to falsely manipulate or under-read or over-read, take inaccurate samples or make any false determinations by Babcock test or any other contrivance used to determine the quantity of fat in milk or cream or value of milk or cream delivered to a creamery, cheese factory, condensary, ice cream plant, milk plant or milk depot, or any other place where milk or cream is purchased, or when sold or purchased. The test shall be clear butterfat, free from sediments, solids and other foreign substance, and must be read at a temperature of 130°-140°. Cream tests must be weighed and must not be taken except from milk or cream which has been thoroughly mixed by stirring with an instrument suitable for that purpose. The scales must be accurate and sensitive to a weight of thirty (30) milligrams; the tester and owner or owners are jointly responsible for their accuracy. For the purpose of providing official supervision of the operation of the Babcock test in all creameries, cheese factories, condensaries, ice cream plants and milk depots using said test, and all receiving stations conducted for the purchase of butterfat either in the form of cream or milk, the following regulations are hereby promulgated: (1) That all individuals, corporations and partnerships authorized by license or permit to conduct the Babcock test in the State of Texas shall retain in a cool, clean, sanitary place and in tightly stopped bottles or tightly covered jars the exact, properly labeled samples of cream or milk from which the butter-

fat test has been conducted, until 6 P. M. of the next test day; (2) upon such occasions as may be determined wise, the Agricultural Department or its inspectors may order any sample or samples held for a longer period than provided for by these regulations.

(b) Any person violating the provisions of these Articles shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand (\$1,000.00) Dollars and upon the second offense, the Commissioner of Agriculture may revoke for six (6) months the license of any person licensed to make the Babcock test of milk or cream. As amended Acts 1943, 48th Leg., p. 174, ch. 99, § 1.

Approved April 2, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

CHAPTER ELEVEN-A—STORES AND MERCANTILE ESTABLISHMENTS

Art. 1111d. Operating stores or mercantile establishments without license unlawful

License fees; exemptions

Section 5. Every person, agent, receiver, trustee, firm, corporation, association, or copartnership opening, establishing, operating, or maintaining one or more stores or mercantile establishments 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 stores or mercantile establishments. The license fee herein prescribed shall be paid annually and shall be in addition to the filing fee prescribed in Sections 2 and 4 of this Act. Provided that the terms, "store, stores, mercantile establishment or mercantile establishments" wherever used in this Act shall not include: any wholesale and/or retail lumber and/or building material place of business, provided as much as seventy-five (75) per cent of the gross proceeds of the business done each preceding calendar year at such place of business is derived from the sale of lumber and/or building material, providing that the term "building material" as used herein shall be construed to include any material which is used or usable in the construction of buildings, improvements or structures, including materials consumed in and any article to be built into and become a part of buildings, improvements or structures; also mechanics' hand tools used in the construction of buildings, improvements or structures; and/or oil and gas well supplies and equipment dealers; and any place of business commonly known as a gasoline filling station, service station, or gasoline bulk station or plant, provided as much as seventy-five (75) per cent of the gross proceeds of the business done thereat is derived from the selling, storing, or distributing of petroleum products; or any business now paying an occupation tax measured by gross receipts; or any place or places of business used as bona fide wholesale or retail distributing points by manufacturing concerns for distribution of products of their own manufacture only; or any place or places of business used by bona fide processors of dairy products for the exclusive sale at retail of such products; or any place or places of business commonly known as Religious Book Stores, operated for the purposes of selling Religious Publications of any nature, including Bibles, Song Books, Books upon Religious Subjects, Church Offering Envelopes, Church, Sunday School and Training Union Supplies, provided that gas and/or electric utilities shall not hereafter be required to pay

any tax or fee under this Act for the privilege of operating in towns of three thousand (3,000) population or less, according to the next preceding Federal Census, a store or stores for the purpose of selling gas and/or electric appliances and/or parts for the repair thereof, provided as much as seventy-five (75) per cent of the total gross receipts in the preceding calendar year in each such town where such a store or stores are located is derived from the sale therein of gas and/or electric service, and provided further that for the privilege of operating a store or stores in towns of more than three thousand (3,000) population, according to the next preceding Federal Census, for the purpose of selling any or all of the above-named commodities, gas and/or electric utilities shall pay only the fees imposed by Sections 2, 4, and 5 of this Act.

The license fees herein prescribed shall be as follows:

1. Upon one (1) store the license fee shall be One Dollar (\$1);
2. Upon each additional store in excess of one (1) but not to exceed two (2), the license fee shall be Six Dollars (\$6);
3. Upon each additional store in excess of two (2) but not to exceed five (5), the license fee shall be Twenty-five Dollars (\$25);
4. Upon each additional store in excess of five (5) but not to exceed ten (10), the license fee shall be Fifty Dollars (\$50);
5. Upon each additional store in excess of ten (10) but not to exceed twenty (20), the license fee shall be One Hundred and Fifty Dollars (\$150);
6. Upon each additional store in excess of twenty (20) but not to exceed thirty-five (35), the license fee shall be Two Hundred and Fifty Dollars (\$250);
7. Upon each additional store in excess of thirty-five (35) but not to exceed fifty (50), the license fee shall be Five Hundred Dollars (\$500);
8. Upon each additional store in excess of fifty (50) the license fee shall be Seven Hundred and Fifty Dollars (\$750);

Such fees are for the period of twelve (12) months, and upon the issuance of any license after the first day of January of any one year, there shall be collected such fractional part of the license fee hereinabove fixed as the remaining months in the calendar year (including the month in which such license is issued) bear to the twelve-month period. As amended Acts 1943, 48th Leg., p. 319, ch. 205, § 1.

Filed without the Governor's signature, May 3, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 1a of the amendatory Act of 1943 read as follows:

"§ 1a. If any section, subsection, sentence, clause, or phrase of this Act is for

any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act."

Section 2 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

CHAPTER TWELVE—MISCELLANEOUS OFFENSES

Art. 1136a—6. Penalty for failing to comply with law

Any building and loan association violating the provisions of this law¹ or failing to comply with the provisions of this law may be required by the Banking Commissioner to pay from Five (\$5.00) Dollars per day to Twenty-five (\$25.00) Dollars per day to the State Banking Department for each day it so fails after lawful notice of the delinquency by the Banking Commissioner of Texas. The Attorney General is authorized to file suit for the collection of such penalty upon certification by the Banking Com-

missioner of the failure or refusal of such association to remit the penalty assessed by him. As amended Acts 1943, 48th Leg., p. 482, ch. 323, § 1.

1 Articles 1136a—1 to 1136a—9; Civ.St. arts. 881a—1 to 881a—68.

Approved and effective May 14, 1943.

Art. 1137a. Repealed. Acts 1943, 48th Leg., p. 654, ch. 372, § 12. Eff. May 25, 1943

Offenses committed or prosecutions begun before repeal, see article 7044 note.

Art. 1137d. Repealed. Acts 1943, 48th Leg., p. 86, ch. 67, § 22. Effective March 17, 1943

Conducting employment office without license, see article 1593a.

TITLE 16—OFFENSES AGAINST REPUTATION

CHAPTER ONE—LIBEL

Art. 1269a. Repealed. Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11

Similar provisions in Texas Banking Code of 1943, see Vernon's Rev.Civ.St. art. 342—907.

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER EIGHT—THEFT IN GENERAL

Art. 1436—1. Motor vehicles; Certificate of Title Act

Sec. 57. Each applicant for a certificate of title or re-issuance thereof shall pay to the designated agent the sum of Fifty (50) Cents, of which Twenty-five (25) Cents shall be retained by the designated agent, from which he shall be entitled to sufficient money to pay expenses necessary to efficiently perform the duties set forth herein; and the remaining Twenty-five (25) Cents shall be forwarded to the Department for deposit to the State Highway Fund, together with the application for certificate of title, within twenty-four (24) hours after same has been received by said designated agent, from which fees the Department shall be entitled to and shall use sufficient money to pay all expenses necessary to efficiently administer and perform the duties set forth herein; and there is hereby appropriated to the Department all of such fees for salaries, traveling expense, stationery, postage, contingent expense, and all other expenses necessary to administer this Act through the biennium ending August 31, 1945. Provided, any such designated agent may employ any and all necessary assistants and incur any and all necessary expense in administering this Act in his county. Such designated agent shall pay such employed assistants and such necessary expenses incurred by him from the funds retained by him hereunder, and any amount of such funds remaining in his hands in any event shall be by him remitted to the Road and Bridge Fund of his county. As amended Acts 1943, 48th Leg., p. 404, ch. 272, § 1.

Amendment to section 57 of this article 1943 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER THIRTEEN—PROTECTION OF STOCK RAISERS

Art. 1488. 1414, 936, 785 Counties exempted

Potter County exempt, see Vernon's Rev. Civ. St., article 7005 note.

CHAPTER SIXTEEN—SWINDLING AND CHEATING

Art. 1549. [1425] [947] [794] If the act constitutes any other offense

Where property, money, or other articles of value enumerated in the definition of swindling, are obtained in such manner that the acquisition thereof constitutes both swindling and some other offense, the party thus offending shall be amenable to prosecution at the state's election for swindling or for such other offense committed by him by the unlawful acquisition of said property in such manner. As amended Acts 1943, 48th Leg., p. 362, ch. 240, § 1.

Approved and effective May 6, 1943.
Section 2 of the amendatory Act of 1943 read as follows: "The fact that Article 1549 of the Penal Code has been construed by the courts to mean that if one commits an offense coming within the definition of both swindling and some other offense the indictment and prosecution must be for such other offense, and the fact that this creates many situations of confusion to prosecutors and the courts and

often enables guilty persons to escape a righteous punishment, creates an emergency and an imperative public necessity requiring the suspension of the Constitutional Rule requiring bills to be read on three several days in each House, and such Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

TITLE 18—LABOR**CHAPTER THREE—FEMALE EMPLOYÉS**

Arts. 1569-1572. Repealed. Acts 1943, 48th Leg., p. 94, ch. 68, § 14.
Effective March 18, 1943

Hours of labor and punishment for violations under 1943 law, see Vernon's Ann. Civ.St., art. 5172a.

CHAPTER SIX—WORKMEN AND FIREMEN

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 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 (1) 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 sixty thousand (60,000) inhabitants to require or permit any such fireman and policeman 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 and 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 and forty-four (144) hours in any two (2) consecutive calendar weeks for the protection of property or human life; said fireman and policeman shall draw additional compensation for the number of hours worked in addition to the regular twelve-hour calendar day, or more than the regular seventy-two (72) hours in any one calendar week or more than the regular one hundred and 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 overtime 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 sixty thousand (60,000) inhabitants each member of any such department shall receive a sum of One Hundred and Fifty Dollars (\$150) 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

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

financed not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100), 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 separate offense. As amended Acts 1943, 48th Leg., p. 309, ch. 201, § 1.

Filed without the Governor's signature, April 30, 1943.

Effective April 30, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Funding indebtedness representing difference between wages paid and wages required to be paid by this article by cities of over 75,000 population, see Vernon's Rev. Civ.St. art. 802a.

CHAPTER SEVEN—EMPLOYMENT AGENTS

Art.

1593a. Certain acts prohibited; punishment [New].

Arts. 1584-1593. Repealed. Acts 1943, 48th Leg., p. 86, ch. 67, § 22. Effective March 17, 1943

Art. 1593a. Certain acts prohibited; punishment

Sec. 13. No employment or labor agent shall:

(a) Knowingly admit, or allow to remain on the premises of such agent any prostitute, gambler, intoxicated person or any person of bad character.

(b) Advertise his agency by means of cards, circulars, signs or in newspapers or other publications, unless all such advertisements shall set forth the name of the agent and the address of his employment office; nor shall any such licensed person use any letterheads or blanks not containing the name of such employment or labor agent and the address of his employment office.

(c) Publish or cause to be published any false or misleading advertisement or notice relating to his employment agency.

(d) Give any false information or make any false representation concerning employment to any applicant for employment.

(e) Send out an applicant for employment to any prospective employer without first having obtained a bona fide written order from such prospective employer.

(f) Furnish any female for immoral purposes; or send, or cause to be sent any female to enter as servant, inmate, or for any purpose whatsoever, any place of bad repute, house of ill fame, or assignation house, or any house or place of amusement kept for immoral purposes, the character of which such employment agent could have ascertained by reasonable diligence.

(g) Furnish employment to any child in violation of the Statutes regulating the employment of children or the compulsory attendance at school.

(h) Divide or offer to divide, directly or indirectly, any fee charged or received with any person who secures workers through such agent, or to whom workers are referred by such agent.

(i) No employment agent shall send any person to a prospective employer who is conducting a "lockout" against all or part of his employees; or whose employees, or a part of them are out on a strike, without first apprising said person of the existence of said "lockout" or strike.

Untruth by Employer or Applicant

Sec. 14. No employer seeking employees, and no person seeking employment, shall knowingly make any false statement or conceal any material facts for the purpose of obtaining employees, or employment, by or through any employment or labor agent.

To Display License and Law

Sec. 15. Every employment and labor agent shall keep conspicuously posted in his office the license issued to him under the law, two copies of this Act, one printed in English and the other in Spanish in type not smaller than ten points, which copies shall be conspicuously placed so that they may be easily read by the public, such copies of the Act to be furnished by the Commissioner at the time such license is issued.

Doing Business Without License

Sec. 16. Whoever acts as an employment or labor agent or conducts an employment office in any county in this State without having first filed with the Commissioner of Labor Statistics of the State of Texas, an application for license as employment or labor agent as provided by this Act, and/or without having first paid all State and county occupation taxes and annual license fee as provided by law or without having first secured a State license as provided, and/or who does not file monthly reports as provided by this Act, and/or who shall engage in the business of an employment or labor agent in any county in this State without first having designated such county as one of the counties in which he proposes to do such business in his original or amended application to the Commissioner of Labor Statistics of Texas, shall be guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding Five Hundred Dollars (\$500), or by imprisonment in the county jail for not exceeding six (6) months, or by both such fine and imprisonment.

Punishment

Sec. 20. Unless otherwise provided for in this Act, any employment or labor agent who violates any provision of this Act shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200), except that any employment or labor agent who shall induce or attempt to induce any person to leave his or her employer with a view to having said person obtain employment through his agency, shall be fined not less than Fifty Dollars (\$50) nor more than Two Hundred and Fifty Dollars (\$250), or be imprisoned in jail not to exceed one (1) year, or both. Acts 1943, 48th Leg., p. 86, ch. 67.

Approved and effective March 17, 1943. Leg., p. 86, ch. 67, are published as Vernon's Ann.Civ.St., art. 5221a-4.

TITLE 19—MISCELLANEOUS OFFENSES

CHAPTER SIX—FREE PASSES, TRANSPORTATION AND FRANKS

Art.

1661.1. Motor buses [New].

Art. 1661.1 Motor buses

Section 1. Separation of Races in Motor Buses. That every transportation company, lessee, manager, receiver and owner thereof, operating motor buses in this State as a carrier of passengers for hire shall provide and require that all White passengers boarding their buses for transportation or passage shall take seats in the forward or front end of the bus, filling the bus from the front end, and that all Negro passengers boarding their buses for transportation or passage shall take seats in the back or rear end of the bus, filling the bus from the back or rear end.

Sec. 2. "Negro" Defined. The term "Negro" as used herein includes every person of African descent as defined by the Statutes of the State of Texas, and all persons not included in the definition of "Negro" shall be termed "White persons" within the meaning of this Act.

Sec. 3. Authority of Bus Operator. The operators of all passenger motor buses in this State shall have authority to refuse any passenger or person the right to sit or stand in any motor bus unless such passenger or person shall comply with the provisions of this Act, and such operator shall have the right and it shall be his duty to call any peace officer of the State of Texas for the purpose of removing from any bus any passenger who does not comply with the provisions of this Act, and any such peace officer shall have the right and it shall be his duty to remove from said bus, and to arrest any such passenger so violating this Act, the same as if such person were committing a breach of the peace in the presence of such officer.

Sec. 4. Penalty. If any passenger upon any bus in this State shall ride or attempt to ride on said bus in a place prohibited under the provisions of this Act, he shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Five Dollars (\$5) nor more than Twenty-five Dollars (\$25).

Sec. 5. Exceptions. The provisions of this Act shall not be construed so as to prohibit nurses from riding in the same end of the bus with their employers or when actually in charge of a child or children of such employers, even though of different races, and shall not prohibit officers from riding with prisoners in the same end of the bus, even though of different races.

Sec. 6. Excursions, Chartered or Special Buses. The provisions of this Act shall not apply to any chartered bus or special bus run directly as such for the exclusive benefit of either race, but in all such cases said buses shall be plainly marked "Chartered" or "Special." Acts 1943, 48th Leg., p. 651, ch. 370.

Approved May 22, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 7 of the Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act regulating the separation and seating of White and Negro passengers on motor buses operating for hire; defining the term "Negro" and "White" persons;

giving operators of buses authority to refuse any passengers the right to sit or stand on a motor bus who shall refuse to comply with the provisions of this Act, and giving such operators the right to call any peace officer to remove from any motor bus any passenger who does not comply with the provisions of this Act, and giving any such peace officer the right to remove from any motor bus and to arrest any passenger violating this Act; fixing a penalty for the

violation hereof; excepting from the provisions of this Act nurses riding with their employers or when in charge of the child or children of their employers of a different race; and exempting and excepting officers from riding with their charges in the same end of a motor bus; and providing that

this Act shall not apply to any excursion, motor bus or special motor bus run exclusively for the benefit of either race; and providing that such motor buses shall be marked "Chartered" or "Special" bus; and declaring an emergency. Acts 1943, 48th Leg., p. 651, ch. 370.

[CHAPTER TEN A]—PLANT DISEASES AND PESTS

Insecticides and fungicides, punishment for violations of act relating to, see Vernon's Ann.Civ.St., art. 135b—1, § 12.

THE
CODE OF CRIMINAL
PROCEDURE

TITLE 2—COURTS AND CRIMINAL JURISDICTION

Art.
60a. Misdemeanor cases; precinct in which defendant to be tried in justice court [New].

Art.
60a—1. Constable's fees in misdemeanor cases arising in other than his own precinct [New].
60a—2. Violations of Act [New].

Art. 60a. Misdemeanor cases; precinct in which defendant to be tried in justice court

No person shall be tried in any misdemeanor case in any Justice Precinct Court except in the precinct in which the offense was committed, or in which the defendant resides; provided that in any misdemeanor case in which the offense was committed in a precinct where there is no qualified Justice Precinct Court, then trial shall be had in the next adjacent precinct in the same county which may have a duly qualified Justice Precinct Court, or in the precinct in which the defendant may reside; provided that in any such misdemeanor case, upon disqualification for any reason of all Justices of the Peace in the precinct where the offense was committed, such case may be tried in the next adjoining precinct in the same county, having a duly qualified Justice of the Peace; provided that, upon agreement between the attorney representing the State and each defendant or his attorney, which said agreement shall be reduced to writing, signed by said attorney representing the State and each defendant or his attorney, and filed in the Justice Court in which such misdemeanor case is pending, the Justice of the Peace before whom such case is pending may, in his discretion, transfer such cause to the Justice Court of any other precinct in the same county, named in such agreement; provided that in any misdemeanor case in the Justice Court in which two (2) or more defendants are to be tried jointly, such case may be tried in a Justice Court of the precinct where the offense was committed, or where any of the defendants reside. Acts 1943, 48th Leg., p. 424, ch. 290, § 1.

Approved May 6, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the Act of 1943 repealed all conflicting laws and parts of laws.

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing for the trial of persons in misdemeanor cases in Justice Precinct Courts only in the precinct in which the offense was committed, or in which the defendant resides; providing that in precincts where there is no duly qualified

Justice Precinct Court, then trial shall be had in the next adjacent precinct in the same county which may have such Court; providing for trial in the next adjacent precinct in the same county upon disqualification for any reason of all Justices of the Peace in the precinct where the offense was committed; providing that, upon agreement between the attorney representing the State and each defendant or his attorney, the Justice of the Peace before whom such case is pending may, in his discretion, transfer such cause to the Justice Court of any other precinct in the same county, named in such agreement;

providing that in any such misdemeanor case where two (2) or more defendants are tried jointly, such case may be tried in a Justice Court of the Precinct where the offense was committed or where any of the defendants reside; providing cer-

tain conditions under which constables shall receive fees; providing a penalty; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1943, 48th Leg., p. 424, ch. 290.

Art. 60a—1. Constable's fees in misdemeanor cases arising in other than his own precinct

No Constable shall be allowed a fee in any misdemeanor case arising in any precinct other than the one for which he has been elected or appointed, except through an order duly entered upon the Minutes of the County Commissioners Court. Acts 1943, 48th Leg., p. 424, ch. 290, § 1-A.

Art. 60a—2. Violations of Act

Any Justice of the Peace, Constable, Deputy Constable, Sheriff, or Deputy Sheriff either elected or appointed, violating any provision of this Act shall be punished by fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) and shall be subject to be removed from office by action brought in District Court for that purpose. Acts 1943, 48th Leg., p. 424, ch. 290, § 1-B.

TITLE 3—THE PREVENTION AND SUPPRESSION OF OFFENSES, AND THE WRIT OF HABEAS CORPUS

CHAPTER SEVEN—HABEAS CORPUS

2. BY WHOM AND WHEN GRANTED

Art. 119. 167, 157 Return to certain county; procedure after conviction

After indictment found in any felony case, and before conviction, the writ must be made returnable in the county where the offense has been committed, on account of which the applicant stands indicted.

After final conviction in any felony case the writ must be made returnable to the Court of Criminal Appeals of Texas at Austin, Texas. The writ may issue upon the order of any district judge, and said judge may upon presentation to him of a petition for said writ, set the same down for a hearing as to whether the writ should issue, and ascertain the facts, which facts shall be transmitted to the Court of Criminal Appeals with the return of the writ if same is issued after such hearing. Provided further, that should such writ be returned to the Court of Criminal Appeals without the facts accompanying same, or without all of the facts deemed necessary by the Court of Criminal Appeals, said court may designate and direct any district judge or judges of this state to ascertain the facts necessary for proper consideration of the issues involved; and it shall be the duty of the official court reporter of the district judge or judges so designated to forthwith prepare a narration of the facts adduced in evidence upon any such hearing and transmit the same to the clerk of the Court of Criminal Appeals within ten days of the date of such hearing. And it shall be the duty of the district clerk of the county wherein the writ is issued to make up a transcript of all pleadings in such case and to transmit the same within ten days to the clerk of the Court of Criminal Appeals. Provided, that upon good cause shown, the time may be extended by the Court of Criminal Appeals for filing of such narration of facts or transcript.

The clerk of the Court of Criminal Appeals shall forthwith docket the cause and same shall be heard by the court at the earliest practicable time. Upon reviewing the record the court shall enter its judgment remanding the petitioner to custody or ordering his release, as the law and facts may justify. The mandate of the court shall issue to the court issuing the writ, as in other criminal cases. After conviction the procedure outlined in this Act shall be exclusive and any other proceeding shall be void and of no force and effect in discharging the prisoner.

Upon any hearing by a district judge by virtue of this Act, the attorney for petitioner, and the state, shall be given at least one full day's notice before such hearing is held. As amended Acts 1943, 48th Leg., p. 233, ch. 354, § 1.

Approved and effective May 6, 1943. the Act should take effect from and after
Section 2 of amendatory Act of 1943 its passage.
declared an emergency and provided that

TITLE 6—SEARCH WARRANTS

Insecticides and fungicides, search warrants in respect to violations of act relating to misbranding and adulteration, see Vernon's Ann.Civ.St., art. 135b-1, § 13.

TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

CHAPTER ONE—ORGANIZATION OF THE GRAND JURY

Article 333. [384] [372] Jury commissioners

The District Judge shall at each term of the District Court appoint not less than three (3) nor more than five (5) persons to perform the duties of jury commissioners, 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 Acts 1943, 48th Leg., p. 468, ch. 312, § 1.

Approved May 13, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Section 2 of the amendatory Act of 1943 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 338a. Extension beyond term of period for which grand jurors shall sit in counties over 500,000

In all counties having a population of more than five hundred thousand (500,000) according to the last preceding Federal Census, if, prior to the expiration of the term for which the grand jury was empaneled, it is made to appear by a declaration of the foreman or of a majority of the grand jurors in open court, that the investigation by the grand jury of the matters before it cannot be concluded before the expiration of the term, the Judge of the District Court in which said grand jury was empaneled may, by the entry of an order on the minutes of said Court, extend, from time to time, for the purpose of concluding the investigation of matters then before it, the period during which said grand jury shall sit, for not to exceed a total of ninety (90) days after the expiration of the term for which it was empaneled, and all indictments returned by the grand jury within said extended period shall be as valid as if returned before the expiration of the term. As amended Acts 1943, 48th Leg., p. 7, ch. 7, § 1.

Approved and effective Feb. 2, 1943.

Section 2 of the Act of 1941 and the amendatory Act of 1943 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing in counties having a

population of more than five hundred thousand (500,000) for the extension for not to exceed thirty (30) days after the expiration of the term, of the period during which a grand jury may sit to conclude its investigation, and declaring an emergency. Acts 1941, 47th Leg., p. 561, ch. 354.

Art. 344. 395, 383 Clerk shall open lists

The grand jury may be convened on the first or any subsequent day of the term. The Judge shall designate the day on which the grand jury is to be impaneled and notify the Clerk of such date; and within thirty (30) days of such date, and not before, the Clerk shall open the envelope containing the list of grand jurors, make out a copy of the names of those selected as grand jurors, certify to it under his official seal, note

thereon the day for which they are to be summoned, and deliver it to the Sheriff. As amended Acts 1943, 48th Leg., p. 468, ch. 312, § 1.

Approved May 13, 1943.

Effective 90 days after May 11, 1943, date of adjournment.

Art. 345. [396] [384] Summoning

The Sheriff shall summon the persons named in the list at least three (3) days, exclusive of the day of service, prior to the day on which the grand jury is to be impaneled, by giving personal notice to each juror of the time and place when and where he is to attend as a grand juror, or by leaving at his place of residence with a member of his family over sixteen (16) years old, a written notice to such juror that he has been selected as a grand juror, and the time and place when and where he is to attend; or the Judge, at his election, may direct the Sheriff to summon the grand jurors by registered mail. As amended Acts 1943, 48th Leg., p. 468, ch. 312, § 1.

Art. 346. 397, 385 Return of officer

The officer executing such summons shall return the list on the day on which the grand jury is to be impaneled, with a certificate thereon of the date and manner of service upon each juror. If any of said jurors have not been summoned, he shall also state in his certificate the reason why they have not been summoned. As amended Acts 1943, 48th Leg., p. 468, ch. 312, § 1.

TITLE 9—PROCEEDINGS AFTER VERDICT

CHAPTER FOUR—EXECUTION OF JUDGMENT

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 (\$3.00) Dollars for each day thereof; provided, however, that the defendant may pay the pecuniary fine assessed against him at any time while he is serving at work in the workhouse, or on the county farm, or on the public improvements of the county, or while he is serving his jail sentence, and in such instances he shall be entitled to a credit of Three (\$3.00) Dollars for each day or fraction of a day that he has served and he shall only be required to pay the balance of the pecuniary fine assessed against him. As amended Acts 1943, 48th Leg., p. 351, ch. 229, § 1.

Approved and effective May 6, 1943.

Section 2 of amendatory Act of 1943 declared an emergency and provided that the

Act should take effect from and after its passage.

TITLE 16—DELINQUENT CHILD

Arts. 1083-1093. Repealed. Acts 1943, 48th Leg., p. 313, ch. 204, § 24.
Eff. 60 days after May 1, 1943, date of approval

Delinquent children, method of handling
changed, see Civ.St. art. 2338-1.

Care of delinquent children, see Vernon's
Rev.Civ.St., art. 2338.

TABLE OF SESSION LAWS

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