

Texas Historical Statutes Project

1952 SUPPLEMENT
TO
VERNON'S TEXAS STATUTES 1948



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VERNON'S TEXAS STATUTES 1952 SUPPLEMENT

Covering Laws of a General and Permanent Nature
Enacted by the 52nd Legislature at the Regular
Session

TABLES and INDEX

Supplementing
Vernon's Texas Statutes 1948 and
Vernon's Texas Statutes 1950 Supplement

KANSAS CITY, MO.
VERNON LAW BOOK COMPANY

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1952 SUPPLEMENT

THIS Supplement to **Vernon's Texas Statutes 1948** and **Vernon's Texas Statutes 1950 Supplement** includes the laws of a general and permanent nature of the Regular Session of the 52nd Legislature.

The Regular Session of the 52nd Legislature convened January 9, 1951, and adjourned June 8, 1951. The 1951 Legislature adopted new Election and Insurance Codes. These codes are included in complete form in this Supplement.

The 1952 Supplement as well as **Vernon's Texas Statutes 1948** and **1950 Supplement** are under the same classification and arrangement as **Vernon's Annotated Texas Statutes**. This means that users of this volume, the 1948 Edition and 1950 Supplement may go from any article herein to the same article in **Vernon's Annotated Texas Statutes** where the complete constructions of the law by the state and federal courts, as well as complete historical data relative to the origin and development of the law, is immediately and currently available.

The same practical features which have served to popularize the 1948 Edition, such as a complete index, tables, etc., are continued in this Supplement.

The Publisher extends appreciative thanks to the office of the Secretary of State, as well as to other officials for guidance and suggestions during the preparation of this work.

VERNON LAW BOOK COMPANY

February, 1952

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W. A. MORRISON, JUDGE

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K. K. WOODLEY, COMMISSIONERS

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CHARLES E. CRENSHAW, EXECUTIVE ASSISTANT
DAVID B. IRONS, ADMINISTRATIVE ASSISTANT

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OF
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BEN RAMSEYLieutenant Governor.....San Augustine
PRICE DANIELAttorney GeneralLiberty
JOHN BEN SHEPPERD...Secretary of State.....Gladewater
JESSE JAMESState TreasurerAustin
JOHN C. WHITECommissioner of Agriculture.....Wichita Falls
BASCOM GILESCommissioner of General Land Office.....Austin
ROBERT S. CALVERT....Comptroller of Public AccountsAustin
JAMES M. FALKNER....Banking CommissionerAustin
CHARLES H. CAVNESS...State AuditorAustin

SENATE

PRESIDENT PRO TEMPORE ----- Pat Bullock
 SECRETARY OF THE SENATE ----- Mrs. Loyce M. Bell

<i>Name</i>	<i>District</i>
Aikin, A. M., Jr. -----	Paris ----- 8
Ashley, Carlos -----	Llano ----- 20
Bell, John J. -----	Cuero ----- 18
Bracewell, Searcy -----	Houston ----- 16
Bullock, Pat -----	Colorado City ----- 24
Carney, Howard A. -----	Atlanta ----- 1
Carter, Joe D. -----	Sherman ----- 9
Colson, Mrs. Neville H. -----	Navasota ----- 5
Corbin, Kilmer B. -----	Lubbock ----- 30
Fuller, Jep S. -----	Port Arthur ----- 4
Hardeman, Dorsey B. -----	San Angelo ----- 25
Hazlewood, Grady -----	Amarillo ----- 31
Hudson, Hill D. -----	Pecos ----- 29
Kelley, Rogers -----	Edinburg ----- 27
Kelly, Keith F. -----	Fort Worth ----- 28
Lane, Wardlow W. -----	Center ----- 2
Lock, Ottis E. -----	Lufkin ----- 3
Martin, Crawford C. -----	Hillsboro ----- 12
McDonald, Warren -----	Tyler ----- 7
Moffett, George -----	Chillicothe ----- 23
Moore, William T. -----	Bryan ----- 14
Nokes, George O., Jr. -----	Corsicana ----- 6
Parkhouse, George -----	Dallas ----- 11
Phillips, Jimmy -----	Angleton ----- 17
Russell, Joe -----	Royse City ----- 10
Shofner, W. A. -----	Temple ----- 21
Strauss, Gus J. -----	Hallettsville ----- 15
Tynan, Walter -----	San Antonio ----- 26
Vick, Kyle -----	Waco ----- 13
Wagonseller, Wayne W. -----	Stoneburg ----- 22
Weinert, R. A. -----	Seguin ----- 19

HOUSE OF REPRESENTATIVES

SPEAKER ----- Reuben E. Senterfitt

CHIEF CLERK ----- Clarence Jones

<i>Name</i>		<i>District</i>
Abington, W. H. (Bill)	Fort Worth	101 Pl. 2
Adams, Jimmy	Mexia	61
Atwell, Ben	Hutchins	50 Pl. 2
Aynesworth, J. K.	Waco	97 Pl. 2
Banks, Stanley, Jr.	San Antonio	78 Pl. 3
Barnhart, John N.	Beeville	70
Bell, Marshall O.	San Antonio	78 Pl. 4
Berlin, Edgar L.	Port Neches	16 Pl. 2
Blount, R. E., Peppy	Big Spring	91
Bradshaw, Floyd	Weatherford	103
Briggs, Omar, Jr.	Denison	44 Pl. 1
Briscoe, Dolph, Jr.	Uvalde	77
Brooks, Phil	Bagwell	36
Brown, Gus. T., Jr.	Luling	81 Pl. 1
Bryan, Jack C.	Buffalo	56
Buchanan, D. H.	Longview	6f
Carr, Waggoner	Lubbock	119
Cassity, O. A., Jr.	Long Branch	7
Caston, L. P.	Leonard	38f
Chambers, W. R.	May	125
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Childress, Hiram	Sweetwater	117
Cobb, Morris G.	Amarillo	123
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Crosthwait, John L.	Dallas	50 Pl. 1
Crouch, Doug.	Denton	49
Daniel, Bill	Liberty	14
Davis, Charles Gowin	Bellevue	110
Dicker, Edward T.	Dallas	50 Pl. 5
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Duncan, J. O., Jr.	Gilmer	4
Ehlert, William J.	Brenham	24
Etheredge, M. B., Jr.	Huntsville	29
Fenoglio, Anthony (Tony)	Nocona	47
Fields, W. B.	Athens	54
Fisk, Jack G.	Wharton	22
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HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
Graham, Callan -----	Junction ----- 86
Gray, J. F. -----	Three Rivers ----- 76
Gromatzky, Arthur E. -----	Mullin ----- 104
Gurley, Mrs. Dorothy Gillis -----	Del Rio ----- 87
Hall, Bert -----	Rio Vista ----- 99
Hardegree, Joe -----	Ben Wheeler ----- 53
Hardeman, D. B. -----	Denison ----- 45f
Hartsfield, Milton -----	Waxahachie ----- 100 Pl. 2
Heflin, J. M. -----	Houston ----- 19 Pl. 4
Heideke, H. A. -----	Seguin ----- 80
Henderson, Otis -----	Waelder ----- 67
Hill, Paul -----	Tyler ----- 32
Hinson, Geo. T. -----	Mineola ----- 34
Holstein, L. L. -----	Pandora ----- 79
Houston, Horace, B., Jr. -----	Dallas ----- 50 Pl. 3
Huddleston, Earl -----	Oglesby ----- 94
Huffman, Reagan R. -----	Marshall ----- 5
Hughes, Charles E. -----	Sherman ----- 44 Pl. 2
Hull, H. A. (Salty) -----	Fort Worth ----- 101 Pl. 4
Ingram, Denny O., Jr. -----	Kirbyville ----- 13
Isaacks, S. J. -----	El Paso ----- 89 Pl. 1
Johnson, Pearce -----	Austin ----- 82 Pl. 1
Jones, Albert M. -----	Valley Mills ----- 98f
Kazen, Abraham, Jr. -----	Laredo ----- 75
Kilgore, Joe M. -----	McAllen ----- 73
Kirkpatrick, Ray -----	Trenton ----- 41
La Font, Harold M. -----	Plainview ----- 120
Latimer, O. E. (Ozzie) -----	San Antonio ----- 78 Pl. 5
Lehman, Henry G. -----	Giddings ----- 65f
Lindsey, Jim T. -----	Texarkana ----- 1
Loving, J. W. (Bill) -----	Graham ----- 109
McCann, Newton W. -----	Texarkana ----- 3f
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Miller, Wm. A. (Bill), Jr. -----	Houston ----- 19 Pl. 5
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Niemann, Fred -----	Yoakum ----- 23
Nimitz, Edwin O. -----	Orange ----- 15f
Norton, James L., Jr. -----	Nacogdoches ----- 9
Osborn, William E. -----	Marlin ----- 62
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HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
Pattison, James B.	Pattison 20
Paxton, James R.	Elkhart 55
Pearson, G. P., Jr.	Navasota 27f
Pearson, L. R.	Ranger 107f
Perry, Franklin	Angleton 21
Perry, H. G. (Grady)	Stephenville 105
Peterson, Dudley W.	Galveston 18
Presnal, James K.	Bryan 26
Puckett, John Eugene	El Paso 89 Pl. 2
Pyle, Joe	Fort Worth 101 Pl. 1
Rampy, W. H.	Winters 92
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Roark, H. M.	Rockdale 64
Rogers, A. J.	Childress 121
Rogers, Johnnie B.	Austin 82 Pl. 2
Ross, W. C., Sr.	Beaumont 16 Pl. 1
Rutherford, J. T.	Odessa 88
Sadler, Harley	Abilene 116
Seay, Harold	Galveston 17f
Senterfitt, Reuben E.	San Saba 93
Sewell, James	Blooming Grove 58
Shannon, Joe	Fort Worth 102f
Shaw, Lynn	Moody 96f
Sherman, F. H.	Dallas 50 Pl. 4
Smith, Max C.	San Marcos 81 Pl. 2
Spacek, R. B.	Fayetteville 66
Spring, Gilbert M.	Apple Springs 28
Staton, Hiram	Waco 97 Pl. 1
Steward, Jerry A.	Fairfield 57
Stockard, Jerry T.	Corsicana 60f
Stump, William R.	Georgetown 84f
Svadlenak, Frank	Thrall 83
Swindell, Wm. A. (Bill)	Commerce 42f
Tatum, Raymond T. R.	Huntington 12
Taylor, Joe P., Jr.	Omaha 35
Tinsley, Byron R.	Greenville 40
Triplett, Max	Hillsboro 59
Tufares, Deno A.	Wichita Falls 111 Pl. 1
Vale, A. J.	Rio Grande City 74
Warden, John A.	McKinney 43
Weaver, Russell H.	Paris 37
Westbrook, Austin E.	Gainesville 46
Wetherbee, Jim	Harrold 112f
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Wilkinson, Milton	Patroon 10
Williams, Sterling W.	Snyder 118
Williamson, W. A.	San Antonio 78 Pl. 1
Willis, Doyle	Fort Worth 101 Pl. 3
Wilson, Paul S.	Geneva 11

HOUSE OF REPRESENTATIVES

<i>Name</i>		<i>District</i>
Wisener, Jack K. -----	Wells -----	31
Wood, Bill -----	Tyler -----	33F
Wood, Clifford W. -----	Crockett -----	30
Woodruff, Jeff -----	Houston -----	19 Pl. 2
Woods, E. A. "Charlie," Jr. -----	Elgin -----	127
Yezak, Herman -----	Bremond -----	63
Young, Cloyd D. -----	Linden -----	2
Zeiske, Franz W. -----	Bellville -----	25
Zivley, Lamar -----	Temple -----	95

CONSTITUTION OF THE UNITED STATES

ARTICLE XXII

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Certification of Validity. Publication of the certifying statement of the Administrator of General Services that the Amendment had become valid was made on Mar. 1, 1951, F.R.Doc. 51-2940, 16 F.R. 2019.

CONSTITUTION OF THE STATE OF TEXAS

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 49-b.

There is hereby created a Board to be known as the Veterans' Land Board, which shall be composed of the Governor, the Attorney General, and the Commissioner of the General Land Office. The Veterans' Land Board may issue not to exceed One Hundred Million Dollars (\$100,000,000) in bonds or obligations of the State of Texas for the purpose of creating a fund to be known as the Veterans' Land Fund. Such bonds shall be executed by said Board as an obligation of the State of Texas, in such form, denominations, and upon the terms as are now prescribed by Senate Bill No. 29, Chapter 318 of the Acts of the Fifty-first Legislature (provided, that when the limitation of Twenty-five Million Dollars (\$25,000,000) is used in said Senate Bill No. 29, the same shall hereafter be construed as One Hundred Million Dollars (\$100,000,000)), or as said Act may be hereafter amended, or by other laws that the Legislature may hereafter enact; provided, however, that said bonds shall bear a rate of interest not to exceed three per cent (3%) per annum, and that the same shall be sold for not less than par value and accrued interest.

In the sale of any such bonds, a preferential right of purchase shall be given to the administrators of the various teacher retirement funds, the Permanent University Funds, and the Permanent School Funds; such bonds to be issued as needed, in the opinion of the Veterans' Land Board.

The Veterans' Land Fund shall be used by the Board for the sole purpose of purchasing lands suitable for the purpose hereinafter stated, situated in this State, (a) owned by the United States, or any governmental agency thereof; (b) owned by the Texas Prison System, or any other governmental agency of the State of Texas; or (c) owned by any person, firm, or corporation.

All lands thus purchased shall be acquired at the lowest price obtainable, to be paid for in cash, and shall be a part of the Veterans' Land Fund.

The lands of the Veterans' Land Fund shall be sold by the State to Texas Veterans of the present war or wars, commonly known as World War II, and to Texas Veterans of service in the armed forces of the United States of America subsequent to 1945, as may be included within this program by legislative act, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now provided by law, or as may hereafter be provided by law.

"All moneys received and which have been received and which have not been used for repurchase of land as provided herein by the Veterans'

CONSTITUTION OF THE STATE OF TEXAS

Land Board from the sale of lands and for interest on deferred payments, shall be credited to the Veterans' Land Fund for use in purchasing additional lands to be sold to Texas Veterans of World War II, and to Texas Veterans of service in the armed forces of the United States of America subsequent to 1945, as may be included within this program by legislative act, in like manner as provided for the sale of lands purchased with the proceeds from the sales of the bonds, provided for herein, for a period ending December 1, 1959; provided, however, that so much of such moneys as may be necessary during the period ending December 1, 1959, to pay principal of and interest on the bonds heretofore issued and on bonds hereafter issued by the Veterans' Land Board shall be set aside for that purpose. After December 1, 1959, all moneys received by the Veterans' Land Board from the sale of the lands and interest on deferred payments, or so much thereof as may be necessary, shall be set aside for the retirement of said bonds and to pay interest thereon, and any of such moneys not so needed shall not later than the maturity date of the last maturing bond or bonds be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law. All bonds issued hereunder shall, after approval by the Attorney General of Texas, registration by the Comptroller of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute obligations of the State under the Constitution of Texas. Of the total One Hundred Million Dollars (\$100,000,000) of bonds herein authorized, the sum of Twenty-five Million Dollars (\$25,000,000) has heretofore been issued; said bonds are hereby in all respects validated and declared to be obligations of the State of Texas. This amendment shall become effective upon its adoption. Sec. 49-b, Art. 3, adopted election Nov. 13, 1951.

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VERNON'S REVISED CIVIL STATUTES OF THE STATE OF TEXAS

TITLE 2—ACCOUNTANTS—PUBLIC AND CERTIFIED

Art. 41a. Public Accountancy Act of 1945

State Board of Public Accountancy

Sec. 4. The Texas State Board of Public Accountancy shall consist of nine members, each of whom shall be a citizen of the United States and a resident of this State. Members of the Board and their successors shall be appointed by the Governor, with the advice and consent of the Senate, and shall be accountants in public practice; five of whom shall hold certified public accountant certificates issued under the laws of this State; and four shall be public accountants in public practice who hold permits issued under the laws of this State. Members of the Board shall hold office for terms of two years, or until their successors are appointed and have qualified. Members of the present Board shall continue in office until their respective terms have expired at which time the Governor shall appoint their successors. After the effective date of this Act the Governor shall appoint four public accountants as above set out as members of said Board in the following manner: Two, who shall hold office for one year; and two who shall hold office for two years. Thereafter, such Public Accountant appointments shall be made by the Governor each two years as their terms expire, and such appointments each two years are to be made at the time the Governor appoints successors to the Certified Public Accountants whose terms have expired. Vacancies occurring during a term shall be filled by appointments for the unexpired term. The Governor shall remove from the Board any member whose certificate or permit to practice has been void, revoked or suspended. As amended Acts 1951, 52nd Leg., p. 621, ch. 369, § 1.

Powers and duties of Board

Sec. 5. The Board shall administer the provisions of this Act. The Board shall formally elect a chairman and a secretary-treasurer from its members and may adopt such rules as it deems necessary for the orderly conduct of its affairs. The Board may promulgate, and may amend from time to time, rules of professional conduct appropriate to establish and maintain a high standard of integrity in the profession of public accountancy, after notice to all holders of valid permits to practice public accountancy in this State. Such notice shall set forth the proposed rules

of professional conduct, or amendments, and the time when same shall be voted on by public accountants holding valid permits under this Act. No such rule or amendment shall be operative until approved by a majority of those voting at such election. The voting shall be by mail and under such reasonable rules and regulations as the Board may prescribe. The Board shall declare the results of such election and proclaim the effective date of such rules of professional conduct, or amendments, and adopt reasonable means of notifying all public accountants of the result of such election. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall keep a seal which shall be judicially noticed. The Board shall keep records of all proceedings and actions by and before the Board. The Board may employ such clerks as are necessary to assist it in the performance of its duties and in the keeping of its records. The members of the Board who are non-certified public accountants shall have all the authority, responsibility and duties of any other member of said Board except as to the giving of examinations to candidates seeking the certificates of Certified Public Accountant, and except as to all other matters relating to the issuance of certificates as Certified Public Accountants as provided for in Section 12 of the Public Accountancy Act of 1945. The Board members holding certificates as Certified Public Accountants shall have the sole authority, responsibility and duty of performing all acts relating to such examinations and the issuance of certificates as Certified Public Accountants. As amended Acts 1951, 52nd Leg., p. 621, ch. 369, § 2.

Prohibition against practicing without permit

Sec. 8. No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy, issued by the Board. As amended Acts 1951, 52nd Leg., p. 621, ch. 369, § 3.

Examinations; re-examinations, and fees therefor

Sec. 15. All examinations provided for under the Public Accountancy Act of 1945, as amended, shall be conducted by the Board. The examination shall take place as often as the Board deems necessary, but not less frequently than once each year. The time and place of holding examinations shall be duly advertised for not less than three days in three daily newspapers published in the three most populous cities in Texas, beginning not less than thirty days prior to the date of each examination. A candidate who fails shall have the right to any number of re-examinations. Any candidate who, at the time of filing his application to take the examinations provided for under the Public Accountancy Act of 1945, as amended,¹ has passed at least one subject under any prior Act, or who shall hereafter pass a satisfactory examination in one subject, shall have the right to be re-examined in the remaining subjects only, at subsequent examinations held by the Board, and when he passes the remaining subjects, he shall then be considered to have passed the examinations.

The Board shall charge for the examinations (together with certificates to successful applicants provided for in the Public Accountancy Act of 1945, as amended) a fee of Twenty-five (\$25.00) Dollars which shall be payable by the applicant at the time of making the initial application. Should the applicant fail to pass all the required subjects at his first examination, then, if he has received credit for one subject or none, the re-examination fee shall be Fifteen (\$15.00) Dollars. If at the time of his application for re-examination he has credit for only two subjects the re-examination fee shall be Ten (\$10.00) Dollars: while, if, at the

time of his application for re-examination, he has credits for three subjects, the re-examination fee shall be Seven and 50/100 (\$7.50) Dollars. Any person who has taken the examination under any prior Act shall be entitled to re-examination under this Act according to its terms and provisions. All fees provided for herein shall be paid to the Secretary-Treasurer of the Board. It is further provided, that any applicant who has failed any such examination or examinations shall have a right to demand a copy, certified by the Board, of the questions and the answers thereto made by him upon any such examination, with the grade clearly shown thereon, together with a copy of the official solutions to such questions; and the Board shall forthwith comply with such demand by delivering by registered mail to such applicant a true copy of the questions and his answers thereto, certified by the Board, together with a copy of the official solutions to such questions, and the Board may charge such applicant a reasonable fee therefor; and such application by the candidate shall be made within six months after said candidate receives his grade, and not thereafter. As amended Acts 1951, 52nd Leg., p. 621, ch. 369, § 4.

1 This article.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 3—ADOPTION**Art. 46a. Proceedings for adoption, hearing and rights of adopted child****Contents of petition**

Sec. 1a. Every petition for leave to adopt a minor child shall set forth among the facts relative to petitioner and child the following information: (1) the name, race, and age of each petitioner; (2) the residence and present address of petitioner; (3) the name to be given the child through the adoption; (4) the sex, race, birthdate, and birthplace of the child sought to be adopted; (5) the date on or about which the minor child was placed in the home of petitioners; (6) what written consent papers have been obtained from the natural parent or parents and if none obtained, then specify which exception to the necessity for such consent is applicable; (7) the relationship between the petitioner and the child; (8) whether waiver of six (6) months residence in the home of the petitioner is requested, and if so, the reason for requesting the waiver of the six-month period. As amended Acts 1951, 52nd Leg., p. 388, ch. 249, § 1.

Copy of petition to Executive Director of Department of Public Welfare

Sec. 1b. Upon filing and docketing of the petition the Clerk of the Court shall mail a certified copy of same to the Executive Director of the State Department of Public Welfare and shall note upon the docket the date of the mailing. Acts 1951, 52nd Leg., p. 388, ch. 249, § 1.

Information to be furnished

Sec. 1c. After the filing and docketing of the petition, and in order to aid in completing the investigator's report required by law, there shall be furnished upon the request of the Judge of the Court in which said application is pending, or the investigator appointed by the Court, or the Executive Director of the State Department of Public Welfare, the following information: (1) the name of the child as it appears on the birth certificate; (2) the names, residences, and/or street addresses of the natural parents; or if the names and addresses of the natural parents or the name of said child are unknown to the petitioner, such fact or facts should be so stated to either the Judge, investigator, or the Executive Director of the State Department of Public Welfare requesting such information, in which event there shall be furnished in response to such request, the name and address of any person, agency or institution having such information. The request for such information may be directed either to petitioners or to the attorney of record for petitioners, and shall be made not later than fifteen (15) days prior to the date on which the application is scheduled for hearing. Acts 1951, 52nd Leg., p. 388, ch. 249, § 1.

Attendance of child and petitioners at hearing

Sec. 5. The petitioner and the child to be adopted, if fourteen (14) years of age or over, shall be required to attend the hearing in person, but a younger child shall not be required to attend unless the Court so orders; provided, however, that if a husband and wife are joint petitioners and either the husband or wife is a member of the Armed Services of the United States of America and stationed beyond the territorial confines of the United States of America, the personal appearance of such spouse at the hearing shall not be required, if the other spouse be

in attendance at such hearing. As amended Acts 1951, 52nd Leg., p. 225, ch. 133, § 1.

Consent of parents and child; exceptions

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

In a case of a child fourteen (14) years of age or over, the consent of such child also shall be required and must be given in writing in the presence of the court.

Consent shall not be required of parents whose parental rights have been terminated by order of the Juvenile Court or other Court of competent jurisdiction.

In case of a child not born in lawful wedlock the consent of the father shall not be necessary, and the consent of the natural mother, regardless of her age, shall suffice.

In the case of a child placed by its parents in a child-placing agency or institution licensed by the State Department of Public Welfare to place children for adoption, it shall be sufficient for the living parents to consent in writing that such agency or institution place such child for adoption, and no further consent shall be required of such living parent.

In the case of any consent by the natural parents as herein required to the adoption of a minor child, regardless of whether or not said child was born in lawful wedlock, such consent shall be sufficient if given in writing after the birth of said child and duly acknowledged, giving the name, date and place of birth of said child, and shall agree to permanently surrender the care, custody, and parental authority of and over said child, and consent to its adoption upon judgment of any Court of competent jurisdiction without the necessity of reciting therein the names of the parents by adoption. As amended Acts 1951, 52nd Leg., p. 388, ch. 249, § 2.

Status of adopted child

Sec. 9. When a minor child is adopted in accordance with the provisions of this Article, all legal relationship and all rights and duties between such child and its natural parents shall cease and determine, and such child shall thereafter be deemed and held to be for every purpose the child of its parent or parents by adoption as fully as though naturally born to them in lawful wedlock. Said child shall be entitled to proper education, support, maintenance, nurture and care from said parent or parents by adoption, and said parent or parents by adoption shall be entitled to the services, wages, control, custody and company of said adopted child, all as if said child were their own natural child. For purposes of inheritance under the laws of descent and distribution such adopted child shall be regarded as the child of the parent or parents by adoption, such adopted child and its descendants inheriting from and through the parent or parents by adoption and their kin the same as if

such child were the natural legitimate child of such parent or parents by adoption, and such parent or parents by adoption and their kin inheriting from and through such adopted child the same as if such child were the natural legitimate child of such parent or parents by adoption. The natural parent or parents of such child and their kin shall not inherit from or through said child, but said child shall inherit from and through its natural parent or parents. Nothing herein shall prevent any one from disposing of his property by will according to law. Such adopted child shall be regarded as a child of the parent or parents by adoption for all other purposes as well, except that where a deed, will, or other instrument uses words clearly intended to exclude children by adoption, such adopted child shall not be included in such class. The legal adoption of a child according to the laws of another State of the United States, residing in the State of Texas, shall be, in all respects, valid and binding as if the adoption had occurred in the State of Texas, insofar as the effects of the adoption and the right of inheritance may be concerned as provided in this Act. As amended Acts 1951, 52nd Leg., p. 388, ch. 249, § 3.

Sections 1a-1c, 6 and 9, amended by Acts 1951, ch. 249, effective 90 days after June 8, 1951, date of adjournment.

Section 5 amended by Acts 1951, ch. 133, § 1, effective May 3, 1951.

Section 5 of the amendatory Act of 1951, ch. 249, provided that if any paragraph,

sentence, clause, phrase, word or provision of this Act is declared unconstitutional, inoperative or invalid by any court of competent jurisdiction, the same shall not affect or invalidate the remainder of this Act.

Art. 46b. Validation of adoptions

All adoption papers which were signed by an adopting parent or parents prior to August 21, 1931, and under the terms of which any child was attempted to be adopted, be, and the same are, hereby validated and made of binding force and effect, although said adoption papers were not authenticated or acknowledged as required for deeds, and were not prior to the death of the adopting parent filed for record with the County Clerk of the adopting parent's residence.

All adoption decrees heretofore entered by District Court in Texas, based on proceedings which conformed to the adoption statutes as thereafter or hereby amended, be, and the same are, hereby validated and made of binding force and effect. As amended Acts 1951, 52nd Leg., p. 388, ch. 249, § 4.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 3A—AERONAUTICS

Art. 46e—1. Definitions

As used in this Act,¹ unless the context otherwise requires:

(1) "Airport" means any area of land or water, whether of public or private ownership, designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purposes. Such areas shall be deemed to be "utilized in the interest of the public" when the owner thereof by contract, license or otherwise permits the use of such areas by others. Such areas also shall be deemed to be "utilized in the interest of the public" when utilized by the Government of the State of Texas or an agency thereof or by the Government of the United States or an agency thereof in furtherance of the national defense.

(2) "Airport hazard" means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

(3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Act.

(4) "Political subdivision" means any municipality, city, town, village or county.

(5) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(6) "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(7) "Tree" means any object of natural growth. As amended Acts 1951, 52nd Leg., p. 17, ch. 12, § 1.

¹ Articles 46e—1 to 46e—15.

Emergency. Effective March 3, 1951.

Section 3 of the amendatory Act of 1951 provided that this Act shall be cumu-

lative of House Bill No. 333, Chapter 391, Acts of the Fiftieth Legislature, Regular Session, 1947, articles 46e—1 et seq.

Art. 46e—13. Acquisition of air rights

In any case in which: (1) it is desired to remove, lower, or otherwise terminate a non-conforming structure or use; or (2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this Act¹; or (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or non-conforming use is located or the political subdivision owning the airport or served by it may acquire from any person or political subdivision of this State by purchase, grant, or condemnation in the manner provided by Title 52 of the Revised Civil Statutes of Texas, 1925, Articles 3264 to 3271, inclusive, and Acts amendatory thereof or supplementary thereto, such air right, avigation easement, or other estate or interest in the property or non-conforming structure or use in question as may be necessary to effectuate the purpose of this Act. As amended Acts 1951, 52nd Leg., p. 17, ch. 12, § 2.

¹ Articles 46—1 to 46—15.

Emergency. Effective March 5, 1951.

TITLE 4—AGRICULTURE AND HORTICULTURE**CHAPTER SIX—FRUITS AND VEGETABLES****Art. 118d. Texas Citrus Commission****Venue; Enforcement of act; Service of process; Penalties for violations; Certificates of compliance**

Sec. 6. Exclusive venue of all suits by or against the Texas Citrus Commission, and of all suits for which provision is made by this Act, shall lie in the courts of competent jurisdiction in the county where the executive offices thereof may, from time to time, be established. Such courts are authorized, empowered and directed at the request of the Commission to prevent, restrain, correct or abate any violation of this Act and of any valid order, rule or regulation issued by the Commission, and of any order, ruling or regulation made in connection with the administration or enforcement of this Act, and the court shall adjudge to the Commission such relief by way of injunction (which may be mandatory) or otherwise as may be proper under all the facts and circumstances of the case, in order to fully effectuate the purposes of this Act and to carry out the orders, rules and regulations of the Commission made pursuant thereto. Service of process upon the Commission shall be made by serving the chairman or secretary.

Each person, firm, association or corporation who shall in any manner violate any valid order, rule or regulation of the Commission prescribing a minimum grade or minimum size, or both, for citrus fruit and the several varieties and kinds thereof, pursuant to the provisions of this Act, shall forfeit and pay a sum equal to Ten Dollars (\$10) times the number of containers, of whatever size or capacity, of fresh citrus fruit, and the several varieties and kinds thereof, packed by such person, firm, association or corporation in violation of such order, rule or regulation. It shall be the duty of each person, firm, association or corporation who shall tender for transportation or shipment any fresh citrus fruit or any of the several varieties thereof which has been packed or placed in containers to furnish to the carrier when such shipment is tendered an inspection certificate, or certificates, issued under the authority of the Texas Citrus Commission, certifying that such citrus fruit so tendered meets the applicable requirements of the Commission as to grades and sizes. Each transportation company, common or contract carrier, or carrier by automobile, truck, trailer or any other means, who shall carry, transport, convey or deliver any fresh citrus fruit or any of the several varieties thereof without first having obtained such certificate, or certificates, shall forfeit and pay a sum equal to Ten Dollars (\$10) times the number of containers of whatever size so carried, transported, conveyed or delivered. Each person, firm, association or corporation who shall pack, place in containers, process or otherwise deal in any fresh citrus fruit or citrus fruit by-products upon which any tax authorized by this Act is or may become due without having first given the Commission the bond required by this Act, in the amount prescribed by the Commission pursuant to this Act, shall forfeit and pay a sum equal to Fifty Dollars (\$50) times the number of days such violator engages in such activity without first having given such bond. Any natural person who shall carry on any activity which under the provisions hereof requires such person to first obtain an exemption certificate, without first

having secured the exemption certificate herein provided, or who shall violate any valid rule or regulation of the Commission issued pursuant hereto, shall forfeit and pay a sum equal to Twenty-five Dollars (\$25) times the number of days such violator engages in such activity without such exemption certificate and Ten Dollars (\$10) times the number of containers of whatever size packed, transported or processed in violation of the regulations of the Commission. It shall be the duty of the Commission (acting by its attorneys) to institute civil suit for the recovery of the penalties and forfeitures hereby provided in the name of the State of Texas for the use and benefit of the Commission. Any and all recoveries shall be paid into the Texas Citrus Commission Fund created by this Act and shall be expended for the purposes provided by this Act. All such recoveries are hereby appropriated for such purpose for the biennium ending August 31, 1953. The penalties and forfeitures hereby provided shall be cumulative of and in addition to other enforcement and preventive relief provided by law, and suits for recovery thereof may be joined with actions to prevent, restrain, correct or abate any violation of this Act. No garnishment, attachment, appeal, cost or other bond shall be required of the Commission in any proceeding to which it may be a party.

The Attorney General of Texas shall at the request of the Commission represent it in legal matters, or the Commission may employ other counsel. As amended Acts 1951, 52nd Leg., p. 192, ch. 117, § 1.

Specific powers of the Texas Citrus Commission

Sec. 9.

(2) To employ and at its pleasure discharge experts, agents, advertising and public relations counsel, attorneys and such other employees and persons within and without the State of Texas together with any other firms and corporations as it may deem necessary and to fix their respective duties and compensation; provided however, that all compensation to employees proposed to be expended under this Subsection (2) shall be first approved in writing by the Legislative Audit Committee; to receive grants and donations from persons, firms and corporations interested in the citrus industry and to safely keep such grants or donations outside the State Treasury and separate from other funds of the Commission and to expend same for such lawful purposes as may be agreed upon by contract between such donors and the Commission; to make contracts with one or more departments, institutions or agencies of the State and/or Federal government for the joint conduct of research, advertising and other activities designed to promote the welfare of the citrus industry and to pay out of the funds of the Commission, its proportionate part of the cost of such joint enterprises as agreed upon. As amended Acts 1951, 52nd Leg., p. 192, ch. 117, § 2.

(9) To buy, sell, improve, lease, own and dispose of, on such terms and conditions as the Commission may see fit, land and sites upon which to conduct experiments and research and carry on other activities of the Commission. Added Acts 1951, 52nd Leg., p. 192, ch. 117, § 3.

(10) Through its officers and authorized agents and employees to go onto any premises where any citrus fruit or by-product is being packed or placed in containers or processed, or stored, or made ready for shipment for the purpose of investigating whether any tax authorized by this Act is being evaded or any valid rule or regulation of the Commission is being violated. Added Acts 1951, 52nd Leg., p. 192, ch. 117, § 3.

Tax on packing and processing citrus fruit

Sec. 14. There is hereby levied and assessed and there shall be collected, at the times and in the manner and from the persons, firms,

associations and corporations herein provided, a tax upon all citrus fruit as herein provided in such amount not to exceed Three Cents (3¢) per standard packed box or bag of one and three-fifths ($1\frac{3}{5}$) bushels or equivalent, as the Texas Citrus Commission may annually fix and certify to the Commissioner of Agriculture of the State of Texas on or prior to September 1st of each year. Such tax in such amounts as so fixed by the Texas Citrus Commission shall be in effect, commencing September 1st of each year and continuing through August 31st of the following year.

With the exceptions herein provided, said tax at said rate is hereby levied and assessed and shall be collected as herein provided upon all citrus fruit wherever grown which is packed or placed in containers or processed within the State of Texas and thereafter delivered, sold, shipped, consigned or transferred to one other than the person, firm, association or corporation so packing or placing in containers or processing such citrus fruit. Said tax is levied and assessed at the rate which shall be fixed by the Commission for the year commencing September 1st during which the first delivery, sale, shipment, consignment or transfer thereof occurs. Provided, however, that the tax levied pursuant to this Act shall be payable only once on the same fresh or processed citrus fruit.

For the purpose of computing such tax, six (6) units of No. 10 cans of processed citrus fruit shall be equivalent to a standard packed box or bag of one and three-fifths ($1\frac{3}{5}$) bushels of fresh fruit and shall be taxed in the same amount as such standard packed box; twelve (12) units of No. 3 cans of processed citrus fruit shall be taxed in the amount of ninety-six one hundredths (.96) times the amount of tax for a standard packed box; twenty-four (24) units of No. 2 cans of processed citrus fruit shall be taxed in the amount of seventy-five one hundredths (.75) times the tax for a standard packed box; seventy-two (72) units of six (6) ounce cans of processed citrus fruit shall be taxed in the amount of seventy-five one hundredths (.75) times the tax for a standard packed box; each one and three-fifths ($1\frac{3}{5}$) bushel Bruce or wire-bound type box of fresh fruit shall be equivalent to a standard packed box of fresh fruit and shall be taxed in the same amount; each box, basket, or bag containing approximately four-fifths ($\frac{4}{5}$) bushel of fresh fruit shall be taxed in an amount equal to one half ($\frac{1}{2}$) the tax for a standard packed box; each box, basket or bag containing approximately two-fifths ($\frac{2}{5}$) bushel of fresh fruit shall be taxed in an amount equal to one-fourth ($\frac{1}{4}$) the tax for a standard packed box; each basket or bag containing approximately one (1) bushel of fresh fruit shall be taxed in an amount equal to sixty-two and one half per cent ($62\frac{1}{2}\%$) of the tax on a standard packed box; each box, basket or bag containing one half ($\frac{1}{2}$) bushel of fresh fruit shall be taxed in an amount equal to thirty-one and twenty-five one hundredths per cent (31.25%) of the tax on a standard packed box; eight (8) bags containing approximately one-fifth ($\frac{1}{5}$) bushel each of fresh fruit shall be equivalent to a standard packed box and shall be taxed in the same amount; ten (10) eight (8) pound bags of fresh fruit shall be equivalent to a standard packed box of fresh fruit and shall be taxed in the same amount; sixteen (16) five (5) pound bags of fresh fruit shall be equivalent to a standard packed box and shall be taxed in the same amount; four and one half ($4\frac{1}{2}$) gallons of single strength citrus fruit juice or other processed citrus fruit shall be equivalent to a standard packed box of fresh fruit and shall be taxed in the same amount; eighty (80) pounds of fresh fruit in bulk shall be the equivalent of a standard packed box and shall be taxed in the same amount as such standard packed box.

For the purpose of computing such tax on other containers of fresh and processed citrus fruit, and enforcing the collection of the taxes herein levied, the Texas Citrus Commission is authorized, empowered and directed to adopt rules and regulations to prevent evasion and ensure collection and defining what is the equivalent of a standard packed box of fresh fruit, and the proportion of the tax as levied per standard packed box which shall be paid on such other forms and containers of fresh and processed Texas citrus fruit.

It is provided, however, that the tax levied from year to year pursuant to the terms and provisions hereof shall not be due and payable by any natural person as to citrus fruit grown in Texas on land owned by such person and packed and sold by such person as fresh fruit or as to such fruit so grown on such land and processed and sold by such person. Each such natural person claiming an exemption under the provisions hereof, shall, before becoming entitled thereto, file an application for such exemption and receive an exemption certificate from the Texas Citrus Commission at the time and in the manner hereinafter provided, but nothing herein contained shall be construed as requiring any such natural person to obtain an exemption certificate solely for the purpose of making bona fide gifts of citrus fruit grown on land in Texas owned by such person. As amended Acts 1951, 52nd Leg., p. 192, ch. 117, § 4.

Time and place of tax payment

Sec. 15. That taxes authorized by this Act shall be payable (with the exceptions herein set out) by the person, firm, association or corporation packing or placing in containers or processing such fruit, irrespective of whether he (or it) is or is not the owner of such fruit. Such tax shall be paid to the Texas Citrus Commission at its executive offices, on the fifteenth day of the calendar month following the packing or placing in containers and marketing of the fresh citrus fruit or the processing and sale of the processed citrus fruit and by-products, to which such taxes are applicable. Same shall bear interest at the rate of ten per centum (10%) per annum from and after the due date thereof until paid, and shall be personal obligations and claims, against each person, firm, association or corporation who packs or places in containers or processes such citrus fruit. All persons, firms, associations or corporations who shall pack, place in containers or process any fresh or processed citrus fruit and by-products upon which such tax is or may become due, shall keep such records and accounts and make such periodic reports of dealings in fresh and processed citrus fruit and by-products as Texas Citrus Commission may from time to time prescribe. As amended Acts 1951, 52nd Leg., p. 192, ch. 117, § 5.

Bond to insure payment of tax; exemption certificates; identification of tax-exempt fruit

Sec. 16. Each person, firm and corporation (including co-operatives organized under the co-operative marketing laws of Texas) who is or may be engaged in processing or packing or placing in containers or otherwise dealing in any fresh citrus fruit or citrus fruit by-products upon which any tax authorized by this Act is or may become due, shall before engaging in any such activity, give bond to the Texas Citrus Commission in such amount not less than Five Hundred Dollars (\$500) as the Commission may by regulation from time to time prescribe, conditioned upon the prompt payment of all taxes and interest due or to become due under the terms and provisions hereof, at the time and place and in the manner prescribed by law and by rules and regulations which may be from time to time promulgated by said Commission. The terms

and provisions and the amount of such bond to be given by each such person, firm, corporation and co-operative and the surety or sureties thereon, shall be such as are from time to time prescribed by rules and regulations of the Commission and the said bond must be approved by the Commission or some agent thereunto authorized, before becoming effective. If any such bond should expire according to its terms or be cancelled or if the surety or sureties thereon, in the judgment of the Commission or its agent in charge of such matters, should become insolvent, or if default should at any time be made in performance of the terms and provisions of such bond and payment of the taxes and interest due by the principal obligor on such bond, then it shall thereafter be unlawful for the principal obligor on such bond to pack or place in containers or process any citrus fruit within the State of Texas until all taxes and interest in arrears have been paid to the Texas Citrus Commission and until a new bond satisfactory to the Commission has been substituted for such former bond.

In prescribing the amount of bond to be given by the various persons, firms, corporations and associations from whom such bond is required by this Act, the Commission may by regulation from time to time classify the various obligors into different groups and require each member of such group (subject to the minimum prescribed in this Act) to give bond in such amounts as the Commission may prescribe. The grouping so authorized may be based upon such classification as the Commission may from time to time adopt, to the end that the amount of bond required of each group will be adequate to insure payment by each member of such group of the taxes levied pursuant to this Act.

Each natural person who is engaging solely and only in activities which are not subject to the taxes levied under the provisions of this Act shall, under such rules and regulations and safeguards as the Commission may promulgate from time to time, receive from the Commission or its agent thereunto authorized without charge, a certificate of exemption certifying that the activities of such natural person are not subject to taxes under the provisions of this Act. It shall be unlawful for any such natural person to engage in such activities not subject to the taxes levied under the provisions hereof, without first receiving such certificate of exemption, certifying that the activities of such natural person are not subject to tax under the provisions of this Act.

The Commission may from time to time prescribe by regulation the manner in which fruit exempt from tax hereunder, must be identified to distinguish same from non-tax exempt fruit in order to assist in the enforcement of this Act. As amended Acts 1951, 52nd Leg., p. 192, ch. 117, § 6.

CHAPTER SEVEN A—PLANT DISEASES AND PESTS

Art.
135b—2. Repealed.

Art.
135—3. Sale and application of herbicides
[New].

Art. 135b—2. Repealed. Acts 1951, 52 Leg., p. 681, ch. 394, § 28. Eff.
June 4, 1951.

Article derived from Acts 1949, 51st Leg.,
p. 873, ch. 471 and related to hormone type
herbicides.

Art. 135b—3. Sale and application of herbicides**Purpose**

Section 1. The purpose of this Act is to regulate, under the police power of the State of Texas, the sale and application of herbicides.

Definitions

Sec. 2. For the purposes of this Act:

(a) The term "herbicide" means any hormone type herbicide which is any substance or mixture of substances producing a physiological change in the plant tissue without burning, including 2, 4-D and all forms of its derivatives, and used for the purpose of preventing, destroying, repelling or mitigating any weed.

(b) The term "weed" means any plant which grows where not wanted.

(c) The term "person" means any individual, firm, partnership, association, corporation, company, joint stock association, or body politic, or any organized group of persons whether incorporated or not; and includes any trustee, receiver, assignee, or other similar representative thereof.

(d) The term "Commissioner" means the Commissioner of Agriculture of the State of Texas.

(e) The term "State Herbicide Inspector" means the person or persons in any county designated by the Commissioner to assist the Commissioner and his agents and employees in the enforcement of this Act.

(f) The term "County Herbicide Inspector" means any person or persons in any county designated by the Commissioners Court of the County to assist the Commissioner of Agriculture and his agents and employees in the enforcement of this Act within the county in which such County Herbicide Inspector was appointed.

(g) The term "dealer" means any person who sells, offers or exposes for sale, exchanges, barter, or gives away any herbicide to be applied to any land in this State.

(h) The term "applier" means a person engaged in the application of herbicides, by aircraft or ground distributing equipment to any land in this State.

(i) The term "aircraft equipment" means any machine or device designed for or adaptable to use in any contrivance now known or hereafter invented, used or designed for navigation of, or flight in, the air for the purpose of applying herbicides as sprays, dusts, aerosols or fogs, or in any other forms.

(j) The term "ground equipment" means any machine or device designed for or adaptable to use on land or water for applying herbicides as sprays, dusts, aerosols or fogs, or in any other forms.

Compliance with law and regulations in sale, etc.

Sec. 3. No person shall sell, offer or expose for sale, exchange, barter or give away in this State any type of herbicide to be applied to any land in this State except in compliance with the provisions of this Act and the rules and regulations promulgated by the Commissioner under the authority of this Act.

Compliance with law and regulations in applying herbicides

Sec. 4. No person shall use upon or apply to any land in this State any type of herbicide except in compliance with the provisions of this Act and with the rules and regulations promulgated by the Commissioner governing the application and use of herbicides under the authority

vested in him by this Act. It shall be unlawful to apply dust types of herbicides.

Dealers' licenses

Sec. 5. Any person desiring to sell, offer or expose for sale, exchange, barter or give away any type of herbicide to be applied to any land in this State shall first obtain a dealer's license from the Commissioner and pay a license fee of not more than One Hundred and Fifty Dollars (\$150); the amount of such fee to be determined by the Commissioner. The above said license fee shall not be required from any dealer who sells herbicides only in factory-packed containers having a net capacity of not more than eight (8) ounces, but such dealer shall pay a fee of not more than Five Dollars (\$5), the amount of the fee to be determined by the Commissioner. The license shall be renewed annually and the determined fee shall be paid on each renewal. The Commissioner is authorized to exempt from the provisions of this Section any dealer who sells herbicides in factory-packed containers of a capacity of not more than eight (8) ounces in any area which he deems safe.

Applier's permit; bond; examination of applicant; employment of person not bonded and not having permit

Sec. 6. Any person desiring to apply any herbicide to any land or crops in this State shall first obtain an applier's permit from the Commissioner of Agriculture, and pay a permit fee of not more than Ten Cents (10¢) per acre for each acre of land or crops to which any herbicide is to be applied; the amount of such fee per acre to be fixed by the Commissioner. No permit or fee shall be required from any applier who does not use herbicides on a total acreage in any year of more than twenty (20) acres. The Commissioner shall make rules and regulations for the collecting and refunding such fees. The Commissioner is expressly authorized to make refunds of fees collected for acreage to which it was anticipated herbicides would be applied, but the applier did not actually apply any herbicides to such acreage. Any person desiring to engage in the application of herbicides to any land in this State for hire shall execute a surety bond with and payable to the Commissioner of Agriculture in the principal sum of Five Thousand Dollars (\$5,000). All such bonds shall be payable to and approved by the Commissioner with whom the bond shall be deposited for the benefit of any person or persons who may suffer damage as a result of the improper application of herbicides by such person. The Commissioner may require the applicant to show, upon examination, that he possesses adequate knowledge concerning the proper use of herbicides, and the dangers involved, and precautions to be taken in connection with the application thereof. If the applicant is other than an individual, the applicant shall designate an officer, member or technician of the applicant to take the examination, such designee to be subject to the approval of the Commissioner. If the extent of the applicant's operations warrant, the Commissioner may require more than one officer, member or technician thereof to take the examination. Any person who engages or employs an applier who is not a bonded applier and does not hold an applier's permit under the terms of this Act for the purpose of applying any herbicides to lands or crops in this State shall be guilty of violating this Act.

Inspection of equipment

Sec. 7. All ground equipment used for hire and all aircraft equipment proposed to be operated under any permit shall be annually inspected by the Commissioner, and the Commissioner shall issue to the holder of an applier's permit appropriate tags or plates for each unit of equipment found by such inspection to meet the requirements of this Act and to be

acceptable for operation under the permit. Specifications of equipment shall not be less than the minimum standards or recommendations of the United States Department of Agriculture and the Agricultural and Mechanical College System of Texas. The Commissioner shall charge an annual fee of not more than Ten Dollars (\$10), the amount to be fixed by the Commissioner, for each unit of equipment inspected to cover the cost of inspection and the cost of issuing the tag or plate. No person shall use any unit of ground equipment for hire or any aircraft equipment for applying any type of herbicide to any land in this State unless such equipment is described in the permit and inspected and approved by the Commissioner.

Bond of operator of equipment

Sec. 8. Before any aircraft or ground equipment shall be used for the purpose of applying any type of herbicide to any land for hire, the person who owns or who proposes to operate the same shall post a surety bond with the Commissioner in the principal amount of One Thousand Dollars (\$1,000) for each unit of equipment, to be operated under a permit on such form as the Commissioner may prescribe, payable to the Commissioner for the benefit of any person or persons who may suffer damage as a result of the improper use of such equipment in the application of herbicides. All bonds shall be subject to approval by the Commissioner. No bond shall be required of any person operating aircraft or ground equipment as an employee of any person who has posted the bond required by this Act for the operation of the unit of equipment operated by such employee.

Design of licenses, permits, tags and plates; expiration date; revocation or suspension

Sec. 9. All dealers' licenses and applicers' permits and all aircraft and ground equipment inspection tags or plates issued by the Commissioner under the provisions of this Act shall be in such design as the Commissioner shall prescribe and shall expire one (1) year after the date of issue, provided that all such licenses and permits issued after the effective date of this Act and before September 1, 1951, shall expire August 31, 1952. Any dealer's license or applicer's permit may be revoked or suspended, after notice and hearing, for such period of time as the Commissioner may determine for violation of this Act or the rules and regulations of the Commissioner.

Renewal of license or permit

Sec. 10. Any license or permit issued under the provisions of this Act may be renewed upon written application to the Commissioner and upon the payment of the license or permit fee herein prescribed; provided that before the Commissioner shall renew any permit the equipment proposed to be operated thereunder shall be inspected and approved. If said equipment does not meet the requirements of this Act and the rules and regulations of the Commissioner, such permit shall not be renewed until the equipment proposed to be operated under the permit meets the requirements of this Act and the rules and regulations of the Commissioner.

Record of sales, exchanges, etc.

Sec. 11. Any person who sells, exchanges, barter or gives away any type of herbicide in this State shall keep an accurate record thereof showing (1) the name or names of the purchaser, donee or recipient thereof; (2) the date of each sale or delivery; (3) the amount of herbicide so transferred; and (4) in the case of a retailer, the area to which such herbicide is to be applied and the signature of the purchaser or agent.

Such records shall be kept for a period of two (2) years and such records shall be subject to inspection at any time by the Commissioner, his employees or such other public officials as may be designated by law.

Records kept by applicers

Sec. 12. Any person applying any type of herbicide to any land or crops in this State, and any person who owns or controls any land or crops to which any herbicide is applied shall keep an accurate record of each application showing (1) the name of the person or persons in control of the land or crops by ownership or otherwise at the time of application; (2) the name of the person making such application; (3) the location of such land; (4) the date and the time of day of application to such land or crops; (5) the wind velocity and direction at the time of application recorded by instruments approved by the Commissioner; (6) the quality and concentration of such herbicide applied per acre; (7) the total acreage to which application was made; and (8) the type of crop to which applied. Such records shall be kept by the applicer and the land or crop owner for a period of two (2) years, and such records shall be subject to inspection at any time by the Commissioner, his employees or such other public officials as may be designated by law.

Transportation of herbicides; movement of equipment

Sec. 13. No person shall transport over or across the country for a distance greater than five (5) miles in bulk or in the aircraft or ground distributing equipment from which the same is applied to land any type of herbicide. Such distributing equipment shall not be moved a greater distance than five (5) miles from the place of use for application of herbicides to land until the same has been thoroughly flushed out with clean, fresh water. The Commissioner may by proper rule or regulation extend the distance which herbicides may be transported in bulk or in distributing equipment, not to exceed fifty (50) miles, where it is necessary and desirable to extend the distance and where proper safeguards can be taken to prevent damage resulting from transportation. The term "in bulk," as used herein, shall not be construed to apply to materials packed in the manufacturer's original unbroken container. The limitations prescribed in this Section shall not apply to the transportation of herbicides in equipment moving upon stationary rails or tracks nor to such equipment so moving.

Water to be screened

Sec. 14. All water put into any tank of any aircraft or ground distributing equipment must be screened through a screen of not less than seventy-five (75) mesh.

Counties excepted from application of law

Sec. 14a. This Act shall not be effective at this time in any county in this State north and northwest of the southernmost boundaries of Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, and Eastland Counties, and the easternmost boundary line of a portion of Eastland County, and the counties of Stephens and Young; and the southernmost boundary and the easternmost boundary of Clay County, it being the intention of the Legislature that all of the counties named shall be exempted from the provisions of this Act, as herein provided, and all counties of Texas north and west of said named counties shall also be exempted from the provisions of this Act; because it is found to be a fact that there is now no crop or vegetation of value susceptible to damage in this area; provided, however, when any crop or vegetation of value that is

susceptible to damage exists in any county in this area, which fact shall be determined by the Commissioners Court of the affected county, evidenced by an appropriate order entered in the minutes of the court, this Act shall be in full force and effect in that county immediately upon the entrance of said order. Before any such order shall be entered by a Commissioners Court, the court shall first give notice in at least one (1) newspaper in said county ten (10) days prior to a hearing on this matter. Any interested person may appeal to the district court to test the reasonableness of the fact finding of the Commissioners Court within twenty (20) days from entrance of the order, in which case the rules and procedure governing appeals from orders of the Railroad Commission of Texas shall be followed, the "substantial evidence rule" shall apply, and appeals may be taken as in other civil cases. It is further provided that the following named counties shall be exempt from the provisions of this Act: Coleman, Runnels, Coke, Tom Green, Sterling, Glasscock, Reagan, Upton, Irion, Crane, Sutton, Schleicher, Crockett, Val Verde, Presidio, Pecos, Jeff Davis, Brewster, Terrell, Edwards, Mills, Lampasas, Burnet, Llano, Gillespie, Kerr, Bandera, Kinney, Uvalde, Zavala, Real, Kimble, Mason, Menard, McCulloch, San Saba, Concho, Brooks, Cameron, Dimmit, Duval, McMullen, Nueces, Starr, Webb, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, LaSalle, Willacy, and Zapata.

Inspection of land; notice of intent to apply herbicide

Sec. 15. The Commissioner shall provide, by rules and regulations, for the inspection of land on which any type of herbicide is applied, and such inspection shall be made by the Commissioner, his employee, or by the County Herbicide Inspector of the county in which the land is located. Permission shall be granted to such agents or employees as the Commissioner may designate to enter upon the land at any time before, during or after application for the purpose of making inspections. Before application is made, any person desiring to apply herbicide to any land in this State shall notify, in writing, the County Herbicide Inspector or the Commissioner of Agriculture in case there is not a County Herbicide Inspector, of his intent to apply herbicide, the place of such application and the approximate date that such application will be made. No written notice shall be required from any applicer who does not use herbicides on a total acreage in any year of more than five (5) acres. In the event the weather conditions at the time and place stated in such notice are such as to require a postponement of the application of the herbicide on the date stated in the notice, application may be made at the earliest time thereafter when weather conditions are suitable, without giving further notice.

Maximum height of aircraft; wind velocity; wind gauges

Sec. 16. The Commissioner is hereby authorized to set the maximum height at which aircraft distributing equipment may apply any herbicide, and the maximum wind velocity at which any herbicide may be applied; provided that heights and wind velocity may vary by reason of the location of the premises to which the herbicide is to be applied and other conditions which may affect its effect on crops planted on adjoining lands. Wind gauges or wind gauge equipment of a type or types approved by the Commissioner must be in operation at all times when any land is subjected to the application of any type of herbicide.

Rules and regulations governing sale, exchange, etc.

Sec. 17. Within thirty (30) days after the effective date of this Act the Commissioner shall make rules and regulations governing the sale, exchange, barter and gift of all types of herbicides for application to land

in this State and regulating the application thereof to land. The rules and regulations of the Commissioner shall conform as far as possible to the recommendations of the United States Department of Agriculture and of the Agricultural and Mechanical College System of Texas. All rules and regulations promulgated hereunder shall be only such as are reasonably required to prevent injury to crops on lands other than those to which herbicides are applied.

Publication and distribution of rules; revision

Sec. 18. Rules and regulations of the Commissioner shall be published in printed form and a copy thereof delivered to each applicant for a license or permit. Said rules and regulations shall be made available for free distribution to interested parties. Upon request of any interested party for a revision of any rule or regulation, the Commissioner shall hold a public hearing and give written notice thereof to all known interested parties at least ten (10) days before the date of the hearing. Not more than one (1) hearing shall be held in any ninety (90) day period unless the Commissioner determines that more frequent hearings are required in the public interest. Each revision of the rules and regulations pursuant to notice and hearing shall be published in the same manner as the original rules and regulations promulgated under the provisions of this Act.

Effective date of amended rules

Sec. 19. Whenever any changes in the rules and regulations are promulgated and published by the Commissioner, all dealers and applicers of herbicides shall have twenty (20) days within which to comply with the amended rules and regulations after publication and all rules and regulations previously promulgated shall remain in effect until the amended rules and regulations become applicable.

Time for compliance with law or regulations; revocation of license or permit

Sec. 20. After the promulgation and publication of the rules and regulations by the Commissioner, all persons affected by the provisions of this Act shall have twenty (20) days within which to comply with this Act, and the rules and regulations of the Commissioner. Any person failing to comply with any provision of this Act or with the rules and regulations of the Commissioner within twenty (20) days after the promulgation and publication of such rules and regulations by the Commissioner shall be guilty of violating this Act. The Commissioner may, after notice and hearing, revoke a license or permit issued to any person who violates any provision of this Act or any rule or regulation of the Commissioner. The Commissioner may bring suit, in the court of competent jurisdiction, for a violation or the enforcement of this Act by and through the services and counsel of the County or District Attorney in the county of such violation or by the services and counsel of the Attorney General's Department of the State of Texas.

Herbicide fund; inspectors and employees

Sec. 21. All license and permit fees collected by the Commissioner under the provisions of this Act shall be placed in a special fund of the State Treasury to be known as the "Herbicide Fund" which fund, or so much thereof as may be necessary, is hereby appropriated to the Commissioner to pay the expenses of the administration of this Act and all expenditures shall be paid by the Treasurer upon warrants drawn by the Comptroller of Public Accounts issued by the Commissioner. The Commissioner may employ such inspectors and other employees as may be necessary for the proper enforcement of the provisions of this Act and

may compensate the State Herbicide Inspectors for each day actually worked in connection with the enforcement of this Act under the direction of the Commissioner of Agriculture.

County inspectors

Sec. 22. It shall be lawful for the Commissioners Court of any county to appoint a person or persons as County Herbicide Inspector to perform the duties as set forth by and to work in conjunction with the Commissioner of Agriculture. The County Commissioners Court may set, provide for, and pay such salary to the County Herbicide Inspector as such Commissioners Court deems necessary and proper. Before any County Herbicide Inspector is employed he shall show, upon such examination as the Commissioner may require of an applier under Section 6 of this Act, that he possesses adequate knowledge concerning the proper use of herbicides, and the dangers involved, and precautions to be taken in connection with the application thereof.

Violations of law

Sec. 23. Any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) and not more than Two Thousand Dollars (\$2,000).

Civil liabilities; forfeiture of license

Sec. 24. The penalty provided herein shall be cumulative of all other civil liabilities which may be imposed by general law and any person convicted hereunder shall forfeit any license or permit held under this Act, and the same shall not be reissued within one (1) year after forfeiture. The license or permit shall be surrendered to the judge of the court in which final conviction is had and forwarded by such judge to the Commissioner.

Suit to review acts, orders, rules or regulations

Sec. 25. Any person aggrieved or dissatisfied by any action, order, rule or regulation of the Commissioner or any County Herbicide Inspector, or any agent or employee of them or either of them, may bring suit to review, set aside, cancel, modify, or suspend such action, order, rule or regulation. Such suit may be brought in the district court of the county in which is situated any lands affected by such action, order, rule or regulation, and must be filed not later than sixty (60) days after notice is received by the complainant of any such action, order, rule or regulation. Such suit shall be brought and tried in accordance with the Rules of Procedure governing the bringing and trial of civil cases; provided that all such trials shall be de novo and no presumption of validity or reasonableness, or presumption of any character, shall be indulged in favor of any action, order, rule or regulation complained of, but determination of the issues in such suit shall be reached upon the evidence adduced at the trial of such cases in accordance with the rules of law, evidence and procedure governing the trial of other civil cases. Evidence of the action, order, rule or regulation complained of in such suit shall be admissible for the purpose, and only for the purpose, of showing the action, order, rule or regulation sought to be reviewed, set aside, cancelled, modified or suspended and for no other purpose, it being the intent of this Act that the so-called "substantial evidence rule" sometimes applied by the courts in respect to orders of administrative or quasi-judicial governmental departments or agencies shall not obtain in suits brought hereunder. Appeal shall lie from any judgment or order of a district court in suits brought hereunder, as in other civil cases.

Exemptions from application of act

Sec. 26. (a) This Act shall not apply to any State or Federal Agricultural Experiment Station, the State Department of Agriculture, the University of Texas or the Agricultural and Mechanical College System of Texas. The Commissioner on written application may exempt from the provisions of this Act such organizations, institutions or persons as he determines duly qualified to conduct research in herbicides.

(b) The Commissioner of Agriculture upon finding that any area of this State has no crops or vegetation of value susceptible to damage by particular type herbicides may exempt that area; and in such exemption specify the types of non-injurious herbicides and define the area where such may be used without compliance with this Act for such time as the Commissioner may deem safe for such exemption.

Partial invalidity

Sec. 27. If any portion of this Act is held invalid by a court of competent jurisdiction, the remaining provisions shall nevertheless be valid the same as if the portion held unconstitutional had not been adopted by the Legislature, it being the intention of the Legislature to enact each portion of this Act separately and the invalidity of any portion shall not affect the validity of the remainder. Acts 1951, 52nd Leg., p. 681, ch. 394.

Emergency. Effective June 4, 1951.

Section 28 of the act of 1951 repealed
Article 135b—2, and all conflicting laws or
parts of laws.

CHAPTER EIGHT—EXPERIMENT STATIONS

1. STATE EXPERIMENT STATIONS

<p>Art. 149j. Experimental investigations and demonstrations in North West Texas [New].</p>	<p>Art. 149k. Scientific investigations and experiments in High Plains Region [New].</p>
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1. STATE EXPERIMENT STATIONS

Art. 149j. Experimental investigations and demonstrations in North West Texas

Section 1. The Board of Directors of Agricultural and Mechanical College of Texas is hereby authorized and empowered to make scientific investigations and experiments in the North West Texas Region, consisting of Wheeler, Collingsworth, Donley, Gray, Childress, Hall, Motley and Cottle Counties for the study of agricultural problems applicable to that region of the State of Texas, with particular emphasis on the study of upbuilding the land, improving production, and determining the types of agricultural products most suitable for the region.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College of Texas is authorized to accept donations of land, water, money, office space or anything they may consider to be of value to the scientific investigations, experiments, and demonstrations herein provided.

Sec. 3. The scientific investigations herein provided shall be under the general direction of the Agricultural and Mechanical College of Texas, and shall be operated and conducted by the Director of the Experiment Station or such other Agricultural and Mechanical System

Official as may be designated by said Board. Acts 1951, 52nd Leg., p. 808, ch. 452.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 149k. Scientific investigations and experiments in High Plains Region

Section 1. The Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized to make scientific investigations and experiments in the study of agricultural problems applicable to the High Plains Region of the State of Texas, with particular emphasis on the study of upbuilding the land, improving production, control and eradication of bindweed and all types of noxious weeds, eradication of aphids or greenbugs, and determining the types of agricultural products most suitable for the region.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College of Texas, is hereby authorized and empowered to select suitable headquarters for this work in the irrigated High Plains Region of Texas, which grows wheat and cotton as major crops. The Said Board of Directors is authorized to accept donations of land, money, office space, or anything considered by them to be of value in the prosecution of their aforesaid studies and investigations.

Sec. 3. The Agricultural Experiment Station hereby provided for shall be under the general direction of the Agricultural and Mechanical College of Texas, and shall be operated and conducted by the Director of the Experiment Station or other officials of the A. and M. System as they may direct; said experimental work to be designated and known as the "Holt Experimental Project" in appreciation of legislative services rendered by Representative I. B. Holt. Acts 1951, 52nd Leg., p. 809, ch. 453.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act providing for the establishment, in the irrigated High Plains Region of Texas, of an experimental project to study upbuilding of the land, improving production, control and eradication of noxious weed, eradication of aphids and determin-

ing the type of agricultural products most suitable to be grown in said region by the Board of Directors of the Agricultural and Mechanical College of Texas; providing for establishment of headquarters therefor, providing for naming same "Holt Experimental Project"; and declaring an emergency. Acts 1951, 52nd Leg., p. 809, ch. 453.

CHAPTER NINE—SOIL CONSERVATION AND PRESERVATION

Art.

165a—9. Reappropriation of unexpended balances; grants of assistance [New].

Art. 165a—9. Reappropriation of unexpended balances; grants of assistance

Reappropriation of balances; eligibility for grants; making of grants

Section 1. The unexpended balances of all sums appropriated to and granted the several soil conservation districts of Texas for the fiscal year ending August 31, 1950, and for the fiscal year ending August 31, 1951, are hereby reappropriated and granted to such soil conservation districts. A soil conservation district shall be eligible to receive grants for each period of the biennium after it has been duly organized and a Cer-

tificate of Organization for the district has been approved and signed by the Secretary of State. All grants to soil conservation districts shall be made by the State Soil Conservation Board based on the Board's determination of equity and need of the district applying for the grant.

Approval and certification of grants; warrants; purchase of machinery and equipment; repairs

Sec. 2. Approval of all grants of assistance to soil conservation districts as provided in this Act shall be certified to the State Comptroller of Public Accounts by the State Soil Conservation Board. Such certification or approval by the State Soil Conservation Board, presented to the Comptroller, shall be sufficient authority for the Comptroller to issue his warrants against any appropriation made for grants to soil conservation districts and shall be also sufficient authority for the State Treasurer to honor payment of such warrants.

Any item of machinery or equipment authorized to be purchased under the terms of this Act shall be purchased through the Board of Control under such regulations and provisions as are now required by law governing purchases for the State or any of its political sub-divisions, which make purchases through the Board of Control; provided, however, that any purchases of machinery or equipment not exceeding Seven Hundred Dollars (\$700) may be made without the necessity of going through the Board of Control, provided prior written approval of the Legislative Budget Board has been first obtained; providing, however, that any repairs to machinery or equipment not exceeding the sum of Two Hundred Dollars (\$200) may be made by the conservation district supervisors without the necessity of going through the Board of Control, but such expenditures for repairs shall not be used for the original purchase of equipment or machinery.

Deposits and withdrawals

Sec. 3. Grants of assistance to soil conservation districts as provided in this Act, when received by the district shall be deposited in the name of the district. Such deposits shall be with a State or National Bank or Banks. Any withdrawals of such funds so deposited to the credit of the district may be withdrawn only on approval of the Board of Supervisors of the district. All checks or orders for such withdrawals shall be signed by the chairman and secretary of the Board of Supervisors of the district.

Bonds of officers and employees; duties and responsibilities; audit of accounts

Sec. 4. The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings, and of all resolutions, regulations and orders issued or adopted. Supervisors may assign to their officers or employees such duties and responsibilities as they may deem necessary to carry out the provisions of this Act, and shall provide for an annual audit of accounts of receipts and disbursements; provided, however, that the first audit shall be for the two-year period beginning September 1, 1949, and ending August 31, 1951. Thereafter, an annual audit shall be made so long as a district is in possession of State funds or equipment, and the period covered by each audit shall be the fiscal year ending August 31. Supervisors shall employ qualified accountants for making such annual audits, copies of which shall be furnished the Governor and the Legislative Budget Board not later than the first of January following the end of the fiscal year covered by such audit. The secretary or secretary-treasurer of the district shall be bonded in an amount equal to at least one-half of

the amount of the district's average daily deposit for the preceding year. The expense of keeping the accounts of the district, the annual audits and the payment of premiums on any surety bonds required by law in the conduct of the affairs of the district shall be paid out of any funds available to the district.

Powers respecting machinery and equipment

Sec. 5. To carry out the purposes of the soil conservation district program as is provided in the State Soil Conservation Law, supervisors may acquire by lease or purchase machinery and equipment and operate such machinery or equipment or may furnish same under lease or rental agreement at prices being currently charged for such services; provided, however, that the charge in any particular project shall never be less than the actual cost to the particular district for reasonable rental, labor, maintenance, depreciation and replacement of equipment. It is further provided that each district receiving funds under this Act shall pay five per cent (5%) of any sums received as rental payments on equipment or machinery under lease to the State Treasury for deposit in the General Fund, until the funds received by a district under this Act shall have been repaid in full.

Operation of equipment at nominal charge

Sec. 6. Any equipment purchased by or granted to the district or on loan by the Federal Government or any of its agencies, or the State or any of its agencies, may be operated from funds provided in this Act at a nominal charge for such services on such projects as may affect small landowners, or small watersheds and as are considered by the supervisors to be in the interest of and for the general welfare.

Disposal of equipment

Sec. 7. Any equipment considered by the supervisors to be obsolete or having served its purpose may be disposed of by the supervisors on open bids or for trade-in on new equipment. Any cash received for the sale of equipment or supplies may be used by the supervisors for further normal district operations.

Supplying landowners with seeds, fertilizers and other supplies.

Sec. 8. Supervisors may purchase and supply or make available to landowners and occupiers, seeds, fertilizers and other supplies including machinery and equipment when considered by supervisors to be essential to the progress of the district program, and to provide insurance and storage for such supplies and equipment. From the sale of seeds, fertilizers, or supplies, the supervisors shall be reimbursed for the cost and handling charges.

Research and demonstration work

Sec. 9. The supervisors of soil conservation districts may cooperate with the research divisions of the State, State Institutions and the Federal Government in research and demonstration work on range grasses, soil analysis, cropping systems and management of grasses, seeds, legumes and other crops and the eradication of obnoxious growth as related to good conservation practices in each soil conservation district in the State. The use of any materials, fertilizers or equipment owned by the district necessary to such operations may be supplied by the supervisors.

Sale of machinery; supplies or equipment before discontinuance of district

Sec. 10. Prior to the discontinuance of a soil conservation district, as provided in Section 12 of this Act, all machinery, supplies or equipment purchased with State funds shall be sold at public sale by the supervisors and all cash received from such sales, together with any cash balance from State funds to the credit of the district shall be transferred to the credit of the State's General Fund and shall be so deposited to the credit of the State of Texas by the secretary of the Board of Supervisors of the district prior to the date fixed for the discontinuance of such district.

Reorganization for purpose of adjusting boundary lines

Sec. 11. In case any organized soil conservation district is dissolved by a vote of the landowners for the purpose of adjusting boundary lines and is immediately reorganized by a vote of the landowners, any funds or equipment owned by the district prior to such reorganization shall pass to the credit of such district upon reorganization. If more than one district is created as the result of such reorganization, funds or equipment owned by the original district involved in the reorganization shall be prorated amongst the newly created districts by the supervisors of the districts involved on terms and amounts agreeable to the supervisors.

Discontinuance of districts

Sec. 12. A soil conservation district may be discontinued by a vote of qualified voters of the district in the same manner in which the district was created, provided at least a majority of the votes cast at the election are for the discontinuance of the district. A certified statement to the Secretary of State by the State Soil Conservation Board that a majority of the ballots cast were for the discontinuance of the district shall be sufficient evidence for the Secretary of State to record and acknowledge such discontinuance as a part of the records of that department.

Comprehensive plans

Sec. 13. Supervisors may adopt comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances and avoidances which are necessary or desirable for the effectuation of such plans including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to bring such plans and information to the attention of the people.

Partial invalidity

Sec. 14. If any part, section, subsection, paragraph, sentence, clause or portion of this Act shall be held by the courts to be unconstitutional, such holding shall not in any manner affect the validity of the remaining portions of this Act. Acts 1951, 52nd Leg., p. 1206, ch. 497.

Emergency. Effective June 15, 1951.

CHAPTER ELEVEN—COTTON

Art. 165—4a. Agricultural agencies to stress increased use and outlet of products; cotton research committee

Sec. 2. A Cotton Research Committee, composed of the Chancellor of the Texas Agricultural and Mechanical College System and the Chancellor of The University of Texas and the President of the Texas Technological College, is hereby created and established to cause surveys, research and investigations to be made relating to the utilization of the cotton fiber, cottonseed, and all other products of the cotton plant, with authority to contract with any and all Agricultural Agencies and Departments of the State, and all State Educational Institutions and State Agencies to perform any such services for said Committee and for the use of their respective available facilities, as it may deem proper, and to compensate such Agencies, Departments and Institutions, to be paid from money appropriated by the Legislature for the purposes of this Act, which appropriations of monies for cotton research are hereby authorized; grants and gifts from the United States or private sources may be accepted for such purposes, and shall be subject only to limitations contained in such grants or gifts. As amended Acts 1951, 52nd Leg., p. 335, ch. 206, § 1.

Amendment of 1951, effective May 17, 1951.

TITLE 7—ANIMALS

Art. 192b. Co-operation between state and federal agencies in destruction of predatory animals

State to co-operate

Section 1. The State of Texas will cooperate through the Agricultural and Mechanical College System of Texas with the United States Department of the Interior, Fish and Wildlife Service in the control of coyotes, wolves, mountain lions, bobcats, and other predatory animals and in the control of prairie dogs, pocket gophers, jack rabbits, ground squirrels, rats and other rodent pests for the protection of livestock, food and feed supplies, crops and ranges.

Appropriation

Sec. 2. It is hereby authorized that funds shall be appropriated out of any sum in the State Treasury not otherwise appropriated for the fiscal years ending August 31, 1952, and August 31, 1953, for said purpose, provided that such monies so appropriated shall not be expended as hereinafter provided unless the Federal Congress shall appropriate adequate funds from the United States Treasury for the same purpose.

Expenditure of appropriation

Sec. 3. The funds hereby authorized to be appropriated each year shall be expended in amounts as authorized by the Board of Directors of the Agricultural and Mechanical College System of Texas and disbursed by warrants issued by the State Comptroller upon vouchers or payrolls certified by the Director of Extension of the Agricultural and Mechanical College System of Texas. The work of controlling predatory animals and rodent pests is to be carried on under the direction of the Fish and Wildlife Service of the United States Department of the Interior.

Transfer of appropriation

Sec. 4. There is hereby transferred to the Agricultural and Mechanical College System of Texas all funds appropriated or to be appropriated to the Livestock Sanitary Commission of Texas by the 52nd Legislature for predatory animal control work for the two-year period ending August 31, 1953.

Cooperative agreement

Sec. 5. The Director of Extension of the Agricultural and Mechanical College System of Texas is hereby authorized and directed to execute a cooperative agreement with the Secretary of the Interior of the United States of America for carrying out such cooperative work in predatory animal and rodent control in such manner and under such regulations as may be stated in such agreement.

Appropriations by Commissioners Court

Sec. 6. The Commissioners Court of any county within the State or the governing body of any incorporated city or town within the State is empowered and authorized at its discretion to appropriate funds for the prosecution of the predatory animal and rodent control work contemplated by this Act¹ and in cooperation with State and Federal authorities to employ labor and to purchase and provide supplies required for the effective prosecution of this work.

¹ This article and Vernon's Ann.P.C. art. 1378a.

Sale of furs, skins and specimens

Sec. 7. All furs, skins and specimens of value taken by hunters or trappers paid from State funds shall be sold under rules prescribed by the Agricultural and Mechanical College System of Texas and the proceeds of such sales shall be credited and added to the fund set up for predatory animal and rodent control; provided that any specimen may be presented free of charge to any State, county or Federal institution for scientific purposes.

Bounty prohibited

Sec. 8. No bounty is to be collected from any county or other source for animals taken by hunters or trappers operating under this Act.¹ Scalps of all animals taken are to be destroyed and all skins of commercial value sold, and every precaution taken to prohibit the collection of bounty by any person herein mentioned.

¹ This article and Vernon's Ann.P.C. art. 1378a.

Entry on public or private lands

Sec. 9. Any person working under the direction of the Fish and Wildlife Service of the United States Department of the Interior or the Agricultural and Mechanical College System of Texas, shall be authorized to enter upon public or private lands within this State for the purpose of carrying on the work of extermination of predatory animals and injurious rodents named in this Act¹, provided the same is done without violating the State or Federal Constitution.

¹ This article and Vernon's Ann.P.C. art. 1378a.

Construction with other acts

Sec. 10. The provisions, restrictions and penalties of Chapter 149, Acts of the Regular Session of the 39th Legislature¹ and of Article 923r, 1377 and 1378 of the Penal Code shall not be construed as applying to hunters and trappers under this Act², provided they are acting in performance of duties contemplated under the terms of this Act. As amended Acts 1951, 52nd Leg., p. 540, ch. 317, § 1.

¹ Repealed, except section 1 which was similar to Vernon's Ann.P.C. art. 4.

² This article and Vernon's Ann.P.C. art. 1378a.

Emergency. Effective June 2, 1951.

Section 2 of the amendatory act of 1951 read as follows: "Provided that if any section, subsection, sentence, clause or

phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion or portions of this Act."

TITLE 8—APPORTIONMENT**Article 193. 24, 16, 11 Senatorial Districts**

The Senatorial Districts of the State of Texas shall hereafter be composed respectively of the following counties and each district shall be entitled to elect one Senator, to-wit:

No. 1. Lamar, Red River, Bowie, Cass, Marion, Morris, Titus, Franklin, Hopkins, Delta.

No. 2. Gregg, Harrison, Panola, Shelby, Rusk.

No. 3. Nacogdoches, San Augustine, Sabine, Newton, Jasper, Hardin, Tyler, Angelina, Cherokee.

No. 4. Jefferson, Orange.

No. 5. Houston, Trinity, Polk, Liberty, Montgomery, San Jacinto, Walker, Grimes, Madison, Leon.

No. 6. Harris.

No. 7. Kaufman, Van Zandt, Wood, Camp, Upshur, Smith, Henderson.

No. 8. Dallas.

No. 9. Cooke, Grayson, Fannin, Hunt, Rains, Rockwall, Collin.

No. 10. Tarrant.

No. 11. Navarro, Anderson, Freestone, Limestone, Falls, Robertson, Brazos, Burleson, Washington.

No. 12. Comanche, Erath, Hood, Somervell, Johnson, Ellis, Hill, Bosque, Coryell, Hamilton.

No. 13. McLennan, Bell, Milam.

No. 14. Travis, Williamson, Bastrop.

No. 15. Lee, Waller, Austin, Colorado, Wharton, Lavaca, Fayette.

No. 16. Brown, Mills, Lampasas, Burnet, Llano, Gillespie, Kerr, Bandera, Real, Kimble, Kinney, Mason, Menard, McCulloch, San Saba, Concho, Uvalde, Zavala.

No. 17. Fort Bend, Brazoria, Galveston, Chambers, Matagorda.

No. 18. McMullen, Live Oak, Karnes, De Witt, Bee, Goliad, Victoria, Jackson, San Patricio, Refugio, Calhoun, Aransas.

No. 19. Blanco, Kendall, Comal, Hays, Guadalupe, Caldwell, Gonzales, Wilson, Atascosa, Frio, Medina.

No. 20. Nueces, Kleberg, Kenedy, Willacy.

No. 21. Maverick, Dimmit, LaSalle, Webb, Duval, Jim Wells, Zapata, Jim Hogg, Brooks, Starr.

No. 22. Clay, Montague, Jack, Wise, Denton, Stephens, Palo Pinto, Parker, Callahan, Eastland.

No. 23. Hardeman, Wilbarger, Wichita, Cottle, Foard, King, Knox, Baylor, Archer, Haskell, Throckmorton, Young.

No. 24. Dickens, Garza, Kent, Stonewall, Borden, Scurry, Fisher, Jones, Shackelford, Howard, Mitchell, Nolan, Taylor.

No. 25. Coleman, Glasscock, Sterling, Coke, Runnels, Crane, Upton, Reagan, Irion, Tom Green, Jeff Davis, Pecos, Crockett, Schleicher, Sutton, Presidio, Brewster, Terrell, Val Verde, Edwards.

No. 26. Bexar.

No. 27. Hidalgo, Cameron.

No. 28. Cochran, Hockley, Lubbock, Crosby, Yoakum, Terry, Lynn, Gaines, Dawson, Andrews, Martin.

No. 29. El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Midland, Ward.

No. 30. Deaf Smith, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley.

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

No. 31. Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Randall, Wheeler. As amended Acts 1951, 52nd Leg., p. 41, ch. 27, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Sections 2-4 of the amendatory Act of 1951 read as follows:

"Sec. 2. This Act shall become effective for the elections, primary and general, for all Senators, from the places herein specified and described, to the Fifty-third Legislature, and continue in effect thereafter for succeeding Legislatures; provided specifically that this Act shall not affect the membership, personnel or districts, of the Fifty-second Legislature; and provided further, that in case a vacancy occurs in the office of any Senator of the Fifty-second Legislature by death, resignation, or

otherwise, and a special election to fill such vacancy becomes necessary, said election shall be held in the district as it now exists.

"Sec. 3. Should any portion of this Act be held unconstitutional by a Court of competent jurisdiction, such holding of unconstitutionality shall not affect the remainder of the Act, and the remainder of the Act shall remain in full force and effect as though the portion held unconstitutional had never been a part of this Act.

"Sec. 4. All laws and parts of laws in conflict with this Act are hereby expressly repealed."

Art. 195. 26, 18, 13 Representative districts; returns

Section 1. The Representative Districts of the State of Texas shall be composed respectively of the following named Counties and each district shall be entitled to elect one (1) Representative except as otherwise provided herein:

1. Bowie
Place 1
Place 2
2. Cass, Marion, Morris
3. Red River, Titus, Camp
4. Harrison
5. Panola, Shelby
6. Nacogdoches, San Augustine, Sabine
7. Tyler, Jasper, Newton
8. Orange
9. Jefferson
Place 1
Place 2
Place 3
Place 4
10. Lamar
11. Delta, Hopkins, Franklin
12. Wood, Upshur
13. Gregg
14. Smith
- 15F. Smith, Gregg
16. Rusk
17. Cherokee
18. Trinity, Angelina
19. Polk, Hardin, San Jacinto
20. Liberty, Chambers
21. Galveston
Place 1
Place 2
22. Harris
Place 1
Place 2
Place 3
Place 4

- Place 5
- Place 6
- Place 7
- Place 8
- 23. Brazoria
- 24. Fannin
- 25. Hunt
- 26. Van Zandt, Henderson, Rains
- 27. Anderson
- 28. Houston, Walker
- 29. Grimes, Montgomery
- 30. Waller, Fort Bend
- 31. Wharton
- 32. Jackson, Matagorda
- 33. Victoria, Calhoun
- 34. DeWitt, Goliad
- 35. San Patricio, Aransas, Refugio
- 36. Nueces
 - Place 1
 - Place 2
 - Place 3
- 37F. Kleberg, Kenedy, Nueces
- 38. Hidalgo
 - Place 1
 - Place 2
 - Place 3
- 39. Cameron
 - Place 1
 - Place 2
- 40F. Cameron, Willacy
- 41. Rockwall, Kaufman
- 42. Navarro
- 43. Freestone, Leon, Madison
- 44. Brazos
- 45. Washington, Austin
- 46. Fayette, Colorado
- 47. Lavaca, Gonzales
- 48. Grayson
- 49F. Grayson, Cooke
- 50. Collin
- 51. Dallas
 - Place 1
 - Place 2
 - Place 3
 - Place 4
 - Place 5
 - Place 6
 - Place 7
- 52. Ellis
- 53. McLennan
 - Place 1
 - Place 2
 - Place 3
- 54. Hill
- 55. Limestone, Falls
- 56. Milam, Robertson
- 57. Burleson, Lee, Bastrop

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

58. Bee, Wilson, Karnes
59. Denton
60. Tarrant
 - Place 1
 - Place 2
 - Place 3
 - Place 4
 - Place 5
 - Place 6
 - Place 7
61. Hood, Somervell, Johnson
62. Bosque, Hamilton, Coryell, Erath
63. Bell
 - Place 1
 - Place 2
64. Williamson
65. Travis
 - Place 1
 - Place 2
 - Place 3
66. Hays, Caldwell, Blanco
67. Kendall, Comal, Guadalupe
68. Bexar
 - Place 1
 - Place 2
 - Place 3
 - Place 4
 - Place 5
 - Place 6
 - Place 7
69. Atascosa, Frio, LaSalle, McMullen, Live Oak
70. Duval, Jim Wells, Brooks, Jim Hogg, Starr
71. Montague, Clay, Archer
72. Jack, Wise, Parker
73. Comanche, Mills, Brown
74. San Saba, Lampasas, Llano, Burnet, Gillespie, McCulloch
75. Young, Stephens, Palo Pinto
76. Shackelford, Callahan, Eastland
77. Coke, Runnels, Concho, Coleman
78. Crockett, Schleicher, Menard, Mason, Sutton, Kimble, Edwards, Kerr, Real, Bandera
79. Uvalde, Medina, Zavala, Dimmit
80. Webb, Zapata
81. Wichita
 - Place 1
 - Place 2
82. Wilbarger, Hardeman, Foard, Cottle
83. Baylor, Throckmorton, Knox, Haskell
84. Taylor
85. Jones, Stonewall, King, Dickens
86. Hutchinson, Ochiltree, Roberts, Lipscomb, Hemphill
87. Gray, Wheeler, Collingsworth
88. Donley, Hall, Childress, Motley
89. Hale, Floyd, Briscoe, Swisher
90. Crosby, Garza, Kent, Borden, Scurry
91. Fisher, Nolan, Mitchell

- 92. Tom Green
- 93. Potter
- 94F. Potter, Carson, Randall, Armstrong
- 95. Oldham, Sherman, Hartley, Dallam, Hansford, Moore
- 96. Parmer, Castro, Bailey, Lamb, Deaf Smith
- 97. Lubbock
 - Place 1
 - Place 2
- 98. Cochran, Hockley, Yoakum, Terry
- 99. Lynn, Dawson, Gaines, Andrews
- 100. Brewster, Terrell, Val Verde, Kinney, Maverick
- 101. Martin, Howard, Glasscock, Sterling, Reagan, Irion
- 102. Midland, Crane, Upton, Pecos
- 103. Winkler, Ector
- 104. Hudspeth, Culberson, Loving, Ward, Reeves, Jeff Davis, Presidio
- 105. El Paso
 - Place 1
 - Place 2
 - Place 3
 - Place 4

Sec. 2. In all districts composed of only one (1) county, the county judge of each county shall receive the returns and issue a certificate of election to the Representative elected as shown by the highest number of votes cast for any one person; but in the several districts composed of more than one (1) county the county judge of the county having the largest population as shown by the last preceding Federal Census shall receive the returns and issue a certificate of election to the Representative elected as shown by the highest number of votes for any one person in the district. As amended Acts 1951, 52nd Leg., p. 48, ch. 31, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Sections 2 to 4 of the amendatory act of 1951 read as follows:

"Sec. 2. Should any portion of this Act be held unconstitutional by a Court of competent jurisdiction, such holding of unconstitutionality shall not affect the remainder of the Act and the remainder of the Act shall remain in full force and effect as though the portion held unconstitutional had never been a part of this Act.

"Sec. 3. All laws and parts of laws in conflict with this Act are hereby expressly repealed.

"Sec. 4. This Act shall become effective for the elections, primary and general, for all Representatives, from the places herein specified and described, to the Fifty-third Legislature, and continue in effect thereafter for succeeding Legislatures; provided specifically that this Act shall not affect the membership, personnel or districts, of the Fifty-second Legislature; and provided further, that in case a vacancy occurs in the office of any Representative of the Fifty-second Legislature by death, resignation, or otherwise, and a special election to fill such vacancy becomes necessary, said election shall be held in the district as it now exists.

Art. 196. 27, 19, 14 Returns made to whom

Returns, to whom made, see art. 195, § 2.

Art. 199. 30, 22, 17 Judicial Districts

5.—Bowie and Cass

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; provided that during the last two (2) weeks of each said term the court shall sit at Texarkana, Texas, for the trial of non-jury cases. Nothing herein however, shall be construed to prevent the trial of non-jury cases at Boston, Texas, or to deprive the court of jurisdiction to try non-jury cases at the county seat.

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; the last four (4) weeks term to begin on the forty-eighth Monday after the first Monday in January above, the court shall try no cases except non-jury cases and pleas of guilty in criminal cases.

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; provided, that the District Clerk of Bowie County or his deputy shall wait upon said court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes and records to Texarkana, Texas, while the court is in session there; and likewise to transfer all necessary books, minutes, records and papers from Texarkana, Texas, to Boston, Texas, at the end of each said term.

The Sheriff of Bowie County or his deputy shall be in attendance upon the court while sitting at Texarkana, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the court.

The Commissioners Court of Bowie County is hereby authorized to provide necessary and suitable quarters for the said Court while sitting at Texarkana, Texas. In its discretion said Commissioners Court of Bowie County is further authorized to make such agreements or agreement with the City of Texarkana, Texas, whereby said City will provide necessary and suitable quarters in Texarkana, Texas, for holding said terms of Court at that place.

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 1951, 52nd Leg., p. 344, ch. 216, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the amendatory Act of 1951 provided that the act should take effect at midnight on Aug. 5, 1951, section 3, repealed conflicting laws and parts of laws, Section 4 read as follows: "Sec. 4. It is hereby declared to be the legislative in-

tent to enact a separate provision of this Act 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."

11, 55, 61, 80, 113, 127, 133, 129, 125.—Harris

Harris County shall constitute the 11th, 55th, 61st, 80th, 113th, 127th, 133rd, 129th, and 125th Judicial Districts. None of said nine (9) District Courts shall have or exercise any criminal jurisdiction in Harris County. Said District Courts of the 11th, 55th, 61st, 80th, 113th, 127th, 133rd, 129th, and 125th Judicial Districts shall have and exercise concurrent jurisdiction, co-extensive within the limits of Harris County, in all civil cases, proceedings, and matters over which District Courts are given jurisdiction by the Constitution and laws of this State.

There shall be two (2) terms of each of said nine (9) Civil District Courts in Harris County in each year, and the first term shall be known as the January-June Term, and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

In all suits, actions, or proceedings in said Courts, it shall be sufficient for the address or designation to be merely "District Court of Harris County." The clerk of the Civil District Courts in Harris County shall be known as the 'Clerk of the District Court of Harris County, Texas.' The clerk of said nine (9) Civil District Courts shall docket alternately on the dockets of the nine (9) District Courts of the 11th, 55th, 61st, 80th, 113th, 127th, 133rd, 129th, and 125th Judicial Districts in Harris County all cases, actions, petitions, applications, and other proceedings filed in the District Courts of Harris County so that the first case or proceeding filed after the effective date of this Act and every tenth case or proceeding thereafter filed shall be docketed in the 11th Judicial District Court; and the second case or proceeding filed and every tenth case or proceeding thereafter filed shall be docketed in the 55th Judicial District Court; and the third case or proceeding filed and every tenth case or proceeding thereafter filed shall be docketed in the 61st Judicial District Court; and the fourth case or proceeding filed and every tenth case or proceeding thereafter filed shall be docketed in the 80th Judicial District Court; and the fifth case or proceeding filed and every tenth case or proceeding there-

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

after filed shall be docketed in the 113th Judicial District Court; and the sixth case or proceeding and every tenth case or proceeding thereafter filed shall be docketed in the 127th Judicial District Court; and the seventh case or proceeding and every tenth case or proceeding thereafter filed shall be docketed in the 133rd Judicial District Court; and the eighth case or proceeding and every tenth case or proceeding thereafter filed shall be docketed in the 129th Judicial District Court; and the ninth case or proceeding and every tenth case or proceeding thereafter filed shall be docketed in the 125th Judicial District Court; and so on seriatim; and all cases or proceedings in this manner shall be docketed in and divided and distributed among said nine (9) Civil District Courts, one-ninth (1/9) to each of them when first filed. All suits shall be filed by the clerk in the order in which the petitions are presented to or deposited with him, and immediately after being so presented or deposited. In case of the disqualification of the Judge of any of said nine (9) Civil Courts in any case or proceeding, such case or proceeding, on his suggestion of disqualification, shall be transferred to another of said courts, and the order of transfer may be made by any Judge of another of said courts and may be transferred to any other of said courts, or instead of transferring the case the Judge of any other of said courts may sit in the court in which the case is then pending and there try the same, and all transferred cases or proceedings shall be docketed by the clerk accordingly. The Judges of said nine (9) Civil Courts shall sign the minutes of each term of the courts in Harris County within thirty (30) days after the end of the term, and shall also sign the minutes at the end of each volume of the minutes, and each Judge sitting in said courts shall sign the minutes of such proceedings as were had before him.

Each Judge of said courts may take a vacation and not attend court for six (6) weeks between the first day of July and the first day of October in each year, during which time the term of court of which he is Judge shall remain open and the Judge of any other Civil District Court in Harris County may hold such court during the vacation of the Judges thereof. During the period of such vacation it shall not be lawful for a special Judge of such court to be elected by the practicing lawyers of such court because of the absence of the Judge on his vacation, unless no Judge of said Civil District Courts is in the county. The Judges of said courts shall, by agreement among themselves, take their vacations alternately so that there shall at all times be at least two of said Judges in the county; and in the event of the absence, sickness or disqualification of the Judge of any of said Civil District Courts any of the other Judges of the said District Courts may act and preside or any regular practicing lawyers of the Bar of Harris County, Texas, may be elected who have the qualifications of a District Judge to act and preside over any of the said courts during such absence, sickness or inability of any of the regular Judges to act and preside therein; and such special Judge shall be elected according to Title 40 of the Revised Civil Statutes of the State of Texas of 1925.

The letters A, B, C, D, E, F, G, H and I shall be placed on the docket and the court papers in the respective District Courts of Harris County to distinguish them: A being used in connection with the 11th District Court; B, the 55th District Court; C, the 61st District Court; D, the 80th District Court; E, the 113th District Court; F, the 127th District Court; G, the 133rd District Court; H, the 129th District Court; and I, the 125th District Court.

The clerk of the District Courts of Harris County, upon the taking effect of this Act, shall prepare promptly dockets for the courts so created by this Act, and shall place on the dockets of said 125th District Court

the ninth case pending on the respective dockets of the 11th, 55th, 61st, 80th, 113th, 127th, 133rd, and 129th District Courts; and shall continue in this manner through said dockets until all said cases thereon are exhausted and the dockets of said nine (9) courts are equalized as nearly as may be. No case then on trial in any of the existing district courts, nor in any case pending on appeal therefrom, shall be transferred to the dockets of the 125th District Court. The cases so transferred shall bear the same docket numbers as in the court from which they are transferred and the judges of the existing district courts, respectively, shall make proper orders transferring from such courts to the 125th District Court the cases which have been placed on the docket of the 125th District Court in pursuance of this Act.

The respective judges of the District Courts of Harris County shall, from time to time as occasion may require, transfer cases from any one of such courts to any other such court in order that the business may be equally distributed among them, that the judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the judge in whose court it is pending; provided, however, that no case shall be transferred from one court to another without the consent of the judge of the court to which it is transferred. When any transfer is made, proper order shall be entered on the minutes of the court as evidence thereof and such order on the minutes shall be notice of the transfer to the attorneys of record of all parties to the cause. As amended Acts 1951, 52nd Leg., p. 504, ch. 308, § 3.

Emergency. Effective June 1, 1951.

Section 1 of the Act of 1951, created an additional district court to be known as the 125th District Court, the limits of the district to be coextensive with Harris County. Section 2 provided for the appointment of a judge to serve until the next general election, and for the election of a judge

thereafter as provided in the Constitution and laws of the state. Section 4 made appropriations for the judge's salary. Section 5 repealed conflicting laws and parts of laws, and provided that as to other laws and parts of laws, the Act should be cumulative.

14th, 44th, 68th, 95th, 101st, 116th, 134th, Criminal District Court of Dallas County, Texas, and Criminal District Court No. 2, of Dallas County, Texas.

There is hereby created and established the Criminal Judicial District of Dallas County, Texas, and the Criminal Judicial District No. 2, of Dallas County, Texas, both to be composed of Dallas County, Texas, alone and the Criminal District Court of Dallas County, Texas, shall have and exercise jurisdiction of the Criminal Judicial District of Dallas County, Texas, and the Criminal District Court No. 2, of Dallas County, Texas, shall have and exercise jurisdiction of the Criminal Judicial District No. 2 of Dallas County, Texas, as are now conferred and to be conferred by law on said Criminal District Courts.

Dallas County shall constitute the 14th, 44th, 68th, 95th, 101st, 116th, 134th Judicial District and the Criminal Judicial District of Dallas County, Texas, and the Criminal Judicial District No. 2 of Dallas County, Texas. Each of said nine (9) District Courts shall have and exercise civil and criminal jurisdiction in Dallas County. The said District Courts of the 14th, 44th, 68th, 95th, 101st, 116th, 134th Judicial Districts and the Criminal District Court of Dallas County, Texas, of the Criminal Judicial District of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, shall have and exercise, in addition to the jurisdiction now conferred by law on said courts, concurrent jurisdiction coextensive with the limits of Dallas County in all actions, proceedings, matters and caus-

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

es, both civil and criminal, of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

The present judges of said courts named herein shall continue as judges of said courts as constituted and defined by this Act, and the tenure of office of said judges shall remain the same as is now provided by law.

The terms of the said courts named herein shall continue and remain the same as now provided by law. The practice and procedure in said courts shall be the same as now provided by law and, in civil actions, as also provided by the Texas Rules of Civil Procedure applicable to District Courts having successive terms.

The letters A, B, C, D, E, F, G, H and I shall be placed on the dockets and court papers of the respective District Courts of Dallas County to distinguish them: "A" being used in connection with the 14th District Court, "B" being used in connection with the 44th District Court, "C" being used in connection with the 68th District Court, "D" being used in connection with the 95th District Court, "E" being used in connection with the 101st District Court, "F" being used in connection with the 116th District Court, "G" being used in connection with the 134th District Court, "H" being used in connection with the said Criminal District Court, and "I" being used in connection with the said Criminal District Court No. 2. All cases in said Criminal District Courts prior to the passage of this Act shall retain the same numbers and letter designations heretofore assigned to said cases.

All indictments shall be returned to the Criminal District Court of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, and in all civil cases, actions, causes, petitions, applications or other proceedings the District Clerk of Dallas County shall docket successively on the dockets of the District Courts of the 14th, 44th, 68th, 95th, 101st, 116th, and 134th Judicial District Courts in Dallas County so that the first case or proceeding filed after the effective date of this Act and every seventh case or proceedings thereafter filed shall be docketed in the 14th District Court, the second case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 44th District Court; the third case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 68th District Court; the fourth case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 95th District Court; the fifth case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 101st District Court; the sixth case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 116th District Court; the seventh case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 134th District Court, and so on in rotation, and in this manner all cases or proceedings filed shall be docketed in and divided equally among the 14th, 44th, 68th, 95th, 101st, 116th and the 134th Judicial District Courts, one-seventh (1/7) in each court.

The District Judges of Dallas County, Texas, shall on or before the first day of January and the first day of July of each year elect one of said District Judges as presiding judge of the Dallas County District Judges. The Presiding Judge of Dallas County District Judges shall, when this Act becomes effective, and from time to time as occasion may require in order to adjust the business and dockets of said Court, transfer, or cause to be transferred, upon the approval of the Judges of said Courts, causes from any one of said courts to any other of said courts in order that the business of said courts shall be continually equalized and distributed among them to the end that each judge shall be at all times

provided with cases or proceedings to try or otherwise consider and that the trial of no cause shall be delayed because of the disqualification of the judge in whose court it is pending. When a case is transferred, proper order shall be entered on the minutes of the Court as evidence thereof. The clerk shall properly docket all cases transferred.

In case of the disqualification of the judge of any one of the said several courts in any case or proceeding, such case or proceeding may be transferred to any other of said courts with the consent of the judge thereof, or the judge of any other of said courts may sit in the court in which the case or proceeding is then pending and try or otherwise dispose of the same. All cases or proceedings transferred shall be properly docketed by the Clerk of the court to which transferred.

All bail bonds, recognizances or other obligations taken for the appearance of Defendants, parties and witnesses in any of the said District Courts or Criminal District Courts of Dallas County, Texas, or any inferior court of Dallas County, Texas, shall be binding on all such defendants, parties and witnesses and their sureties for appearance in any of said courts in which said cause may be pending or to which same may be transferred. In all cases transferred from one of said courts to another all process, bonds, recognizances, and obligations extant at time of such transfer shall be returned to and filed in the court to which the cause is transferred and shall be valid and binding as though originally issued out of the court to which it is transferred.

The judges of said District Courts and Criminal District Courts of Dallas County, Texas, shall, by agreement among themselves, take vacations so that there shall at all times be at least three (3) judges of the said courts in the county during such vacation period.

During the absence of any of the judges of the District and Criminal District Courts of Dallas County, Texas, for sickness, or for any other reason except disqualification, the practicing lawyers of the said courts shall not elect a Special Judge for any of said courts as now provided by law, until said lawyers have first requested the Presiding Judge of the First Administrative Judicial District of Texas to assign a judge to preside over the Court during such absence and if said Presiding Judge has not made an assignment within a period of four (4) days from such request then said practicing lawyers may elect a Special Judge to preside over such court, as now provided by Title 40, Chapter 1, of the Revised Civil Statutes of the State of Texas, 1925.

The judges of the said District Courts and Criminal District Courts shall continue to serve for the terms elected and to be elected as provided by the Constitution and laws of the State of Texas, and in case of a vacancy in the office of judge of any of the said courts by death, resignation and removal, the Governor of the State of Texas shall fill such vacancy by appointing thereto a suitable person possessing the qualifications required of judges of the District Courts to serve until the next general election and until his successor shall have been duly elected and qualified.

The District Clerk for said courts shall be elected as provided by the Constitution and laws of the State of Texas and any vacancies in the office of said Clerk shall be filled by appointment of the Judges of the several District Courts and Criminal District Courts.

The Judge of each of the several District Courts and Criminal District Courts shall appoint an Official Court Reporter for his Court as provided by general law to be compensated as provided by law.

The Sheriff of Dallas County, either in person or by deputy, shall attend the several courts as required by law or when required by the judges thereof, and the sheriff and constables of the several counties of this

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State, when executing process out of said courts, shall receive fees as provided by general law for executing process issued out of District Courts.

The Clerk of the District Courts of Dallas County shall be Clerk of the 14th, 44th, 68th, 95th, 101st, 116th, 134th District Courts and Criminal District Courts and shall be compensated as provided by law.

The criminal District Attorney of Dallas County shall be District Attorney of the 14th, 44th, 68th, 95th, 101st, 116th, 134th District Courts and Criminal District Courts and shall be compensated as provided by law.

Each of the said District Courts shall have an official seal as provided by law for District Courts and Criminal District Courts.

The Grand Jury shall be empaneled by the judges of the Criminal District Courts of Dallas County, Texas, as is now provided by law.

The procedure for drawing jurors for said courts shall be the same as is now or may hereafter be provided by law.

From and after the time this law shall take effect the District Courts and the Criminal District Courts of Dallas County, Texas, shall have and exercise concurrent jurisdiction with each other in all cases, criminal and civil, and in all matters and proceedings of which jurisdiction is vested in District Courts by the Constitution and laws of the State of Texas. The judge of any of the said District Courts and Criminal District Courts may in his discretion try and dispose of any causes, matters and proceedings for any other judge of said courts.

It is the purpose of this Act to constitute the District Courts and the Criminal District Courts of Dallas County, Texas, as constitutional District Courts of general jurisdiction, as provided by the Constitution and law of the State of Texas. As amended Acts 1951, 52nd Leg., p. 663, ch. 383, § 1.

Emergency. Effective June 2, 1951.

Section 1 of the amendatory Act of 1951 provided, in part, that "Article 52 of the Code of Criminal Procedure of the State of Texas, 1925, as amended, as the same relates to and provides for the Criminal District Court of Dallas County and the Criminal District Court No. 2, of Dallas County, and Article 199 of the Revised Civil Statutes of the State of Texas, 1925, as amended, as the same relates to and provides for the 14th, 44th, 68th, 95th, 101st, 116th, and 134th District Courts of Dallas County, Texas, be and said Articles are hereby amended so as to hereafter read as follows:"

Sections 2 and 3 read as follows:

"Sec. 2. If any portion of this Act is held unconstitutional by a court of competent jurisdiction the remaining portions

shall nevertheless be valid the same as if the invalid portion had not been a part hereof.

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict only, provided, however, that nothing in this Act is intended to repeal or amend Article 52-9 of the Code of Criminal Procedure of 1925, or the provisions of House Bill No. 93, Acts of the Fifty-first Legislature, amending Section 4, Chapter 204, Acts of the Forty-eighth Legislature [Art. 2338-1] or any existing law relating to Juveniles, the Juvenile Court of Dallas County or the Judges thereof and in case of any conflict with said Act the provisions of House Bill No. 93, Acts of the Fifty-first Legislature will control."

19, 54, 74.—McLennan

Sec. 8-12. Repealed Acts 1951, 52nd Leg., p. 386, ch. 248, § 13.

The repealed sections were added by Acts 1949, 51st Leg., p. 1177, ch. 591, § 1.

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

Additional district court for counties in 24th judicial District, see District 135.

28.—Nueces, Kleberg, and Kenedy

Nueces, Kleberg and Kenedy counties, see, also, the 105th District, post.

32.—Nolan and Mitchell

Section 1. After the effective date of this Act the 32nd Judicial District shall be composed of and confined to Nolan and Mitchell Counties, and shall be known as the District Court of the 32nd Judicial District. The District Court of the 32nd Judicial District shall have and exercise civil and criminal jurisdiction coextensive with the limits of Nolan and Mitchell Counties in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

Sec. 2. The terms of the District Court of the 32nd Judicial District shall be as follows:

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

In Mitchell County on the third Monday in February, May and October of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Mitchell County. Acts 1951, 52nd Leg., p. 7, ch. 7.

Emergency. Effective Feb. 22, 1951.

Sections 3-5, 12-14 of the act of 1951 read as follows:

"Sec. 3. The Judge of the District Court of the 32nd Judicial District now elected and acting as such shall continue to serve as Judge of the 32nd Judicial District in and for Nolan and Mitchell Counties until the time for which he has been elected expires and until his successor is duly elected and qualified.

"Sec. 4. The District Attorney of the 32nd Judicial District now elected and acting as such shall continue to serve as District Attorney of the 32nd Judicial District in and for Nolan and Mitchell Counties until the time for which he has been elected expires and until his successor is duly elected and qualified.

"Sec. 5. The District Clerks of Nolan and Mitchell Counties duly elected and acting as such shall be the Clerks of the 32nd Judicial District in and for Nolan and Mitchell Counties, respectively, until the next general election and until their successors are duly elected and qualified. Such Clerks shall be compensated as provided by law for District Clerks and shall be paid in the same manner.

"Sec. 12. That all process issued or served before this Act takes effect, including recognizances [recognizances] and bonds returnable to the District Court of

Nolan, Mitchell, Scurry or Borden Counties, shall be considered as returnable to the District Courts in accordance with the terms as prescribed in this Act; and all such process are hereby legalized and all grand and petit juries drawn and selected under existing laws in the District Court of any of the said counties shall be considered lawfully drawn and selected for the next term of the District Court of the respective counties, after this Act takes effect; and all such process are hereby legalized and validated; provided that if the District Court shall be in session in any of such counties at the time this Act takes effect, such Court shall continue in session until the term thereof has expired under the provisions of the existing laws; but thereafter the Court in such county or counties shall conform to the requirements of this Act.

"Sec. 13. If any portion of this Act is held unconstitutional by a Court of competent jurisdiction, the remaining provisions of this Act shall nevertheless be valid the same as if the portion held to be unconstitutional had not been a part of this Act.

"Sec. 14. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict."

Sections 6-11 of the Act of 1951, related to Judicial District No. 132.

63.—Val Verde, Terrell, Maverick, Kinney and Edwards

The Sixty-third Judicial District shall be composed of the Counties of Val Verde, Terrell, Maverick, Kinney and Edwards, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Val Verde on the first Monday in January and the first Monday in June;

In the County of Terrell on the first Monday in February and the third Monday in August;

In the County of Maverick on the first Monday in March and the second Monday in September;

In the County of Kinney on the first Monday in April and the first Monday in October; and

In the County of Edwards on the first Monday in May and the fourth Monday in 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.

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. As amended Acts 1951, 52nd Leg., p. 3, ch. 3, § 1.

Emergency. Effective Feb. 13, 1951.

Sections 3 and 4 of Acts 1945, 49th Leg. p. 516, ch. 314, as amended by Acts 1951, 52nd Leg., p. 3, ch. 3, § 1, read as follows:

"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. All processes 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 next term thereof shall commence under the provisions of this Act, but thereafter all Courts in said District shall conform to the requirements of this Act."

88.—Hardin, Liberty, Tyler and Chambers

Section 1. There is hereby created and established an additional District Court in and for Hardin, Liberty, Tyler and Chambers Counties, the limits of which district shall be coextensive with the limits of said counties. The Court shall be known as the 88th District Court and shall have and exercise jurisdiction coextensive with the limits of Hardin, Liberty, Tyler and Chambers Counties in all actions, proceedings, matters and causes, both civil and criminal, of which district courts are given jurisdiction by the Constitution and laws of the State of Texas.

Sec. 2. Immediately upon passage of this law the Governor shall appoint, with the advice and consent of the Senate, a suitable person, having the qualifications provided by the Constitution and laws of the State of Texas for district judges, as judge of the 88th District Court. He shall hold office as such judge until the next general election, and until his successor is duly elected and qualified. Thereafter such judge shall be elected as provided by the Constitution and laws of the State of Texas.

Sec. 3. There shall be two (2) terms of the District Court of the 88th Judicial District in each of said counties each year as follows:

In Hardin County, beginning on the first Mondays of April and October of each year, each of said terms to continue until the beginning of the next succeeding term; in Liberty County, on the first Mondays in May and November of each year, each of said terms to continue until the beginning of the next succeeding term; in Tyler County, beginning on the first Mondays of June and December of each year, each of said terms to continue until the beginning of the next succeeding term; and in Chambers County, beginning on the first Mondays of March and September of each year, each of said terms to continue until the beginning of the next succeeding term.

The judge of said Court, in his discretion, may hold as many sessions of Court in any term in any county as he may deem proper and expedient for the dispatch of business.

Sec. 4. The district clerk of each of the respective counties included in said Judicial District shall be clerk of the District Court of the 88th Judicial District in such respective counties, and each clerk shall immediately prepare a docket for the 88th District Court and shall docket cases or proceedings having even numbers in the 75th District Court and cases or proceedings having odd numbers in the 88th District Court, beginning with the first case or proceeding filed after the effective date of this Act.

Sec. 5. The judge of the 75th District Court or the judge of the 88th District Court may hear and dispose of any suit or other proceeding on the docket of either of said District Courts of the county in which the action or proceeding is instituted, without the necessity of transferring the action or proceeding from one Court to another, and the judges may transfer cases from one Court to the other by an order entered on the docket of the Court from which the case is transferred, provided that no case shall be transferred without the consent of the judge of the Court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending and the clerk of the District Court in said county shall keep the minutes of the Court in which shall be recorded all the judgments and orders of the 88th District Court.

Sec. 6. After his appointment and qualification, the judge of the 88th District Court shall appoint an official shorthand reporter, who shall be compensated as provided by law.

Sec. 7. The judges of the 75th and the 88th District Courts shall sign the minutes of each term of said respective Courts in each of said counties within thirty (30) days after the end of each term, and each judge shall also sign the minutes of the other Court covering such proceedings as were had before him.

Sec. 8. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only; as to all other laws and parts of laws, this Act shall be cumulative. Acts 1951, 52nd Leg., p. 287, ch. 170.

Emergency. Effective April 20, 1951.

94.—Nueces

Nueces county, see, also, 105th District, post.

101.—Dallas. See 14th District ante.

Subd. 101, Acts 1925, 39th Leg., p. 210, ch. 61, creating an additional district court in and for Dallas County, known as the 101st Judicial District, was amended and sup-

planted by Acts 1951, 52nd Leg., p. 663, ch. 383, § 1, set out under subd. "14, 44, 68, 95, 101, 116, 134" of this article.

105.—Nueces, Kleberg and Kenedy

Sec. 5b. The District Judge of the 105th Judicial District is authorized to appoint with the approval of the Commissioners Court an official interpreter of the Court in Nueces County. The said Commissioners Court shall by resolution fix the salary of said official interpreter not to exceed Three Hundred and Fifty Dollars (\$350) per month nor less than Three Hundred Dollars (\$300) per month, said salary to be paid out of the General Fund of Nueces County.

The District Judge of the 105th Judicial District shall have authority to terminate such employment of such interpreter at any time.

"The official interpreter so appointed by the said District Judge shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all tes-

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timony in said District Court, and which oath shall suffice for his service as official interpreter of such Court in said County in all cases before such Court during his term of office.

The official interpreter may be assigned by said District Judge to assist the Probation Officer of said Court in the discharge of his, the said Probation Officer's, official duties in addition to the duties heretofore enumerated. Added Acts 1951, 52nd Leg., p. 594, ch. 349, § 1.

Emergency. Effective June 2, 1951.

116.—Dallas. See 14th District, ante.

Subd. 116, Acts 1930, 41st Leg., 5th C.S., p. 228, ch. 271, creating an additional district court in and for Dallas County, known as the 116th Judicial District, was amended

and supplanted by Acts 1951, 52nd Leg., p. 663, ch. 333, § 1, set out under subd. "14, 44, 68, 95, 101, 116, 134" of this article.

117.—Nueces

Nueces county, see, also, the 105th District, ante.

125.—Harris, See 11th District, ante.

132.—Scurry and Borden

Sec. 6. The 132nd Judicial District of Texas is hereby created and shall be composed of Scurry and Borden Counties and shall be known as the District Court of the 132nd Judicial District and shall be in existence from and after the effective date of this Act until the 30th day of April, 1957, unless hereafter extended by an Act of the Legislature. The District Court of the 132nd Judicial District shall have and exercise civil and criminal jurisdiction coextensive with the limits of Scurry and Borden Counties in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas. All powers and duties imposed by this Act upon the District Court of the 132nd Judicial District shall expire on April 30, 1957, unless said Court shall be extended by an Act of the Legislature; and upon expiration of said Court all records, pleadings, documents and other matters then relating to or pending in the District Court of the 132nd Judicial District of Texas, including all cases on the docket of the District Court of the 132nd Judicial District, shall be transferred without prejudice to the District Court of the 32nd Judicial District and thereafter Scurry and Borden Counties shall be a part of the 32nd Judicial District of Texas for all purposes.

Sec. 7. The terms of the District Court of the 132nd Judicial District shall be as follows:

In Scurry County on the first Monday in February, April, June, August, October and December of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Scurry County.

In Borden County on the first Monday in January, March, May, July, September and November of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Borden County. Acts 1951, 52nd Leg., p. 7, ch. 7.

Emergency. Effective Feb. 22, 1951.

Sections 8-11 of the act of 1951 read as follows:

"Sec. 8. The District Clerks of Scurry and Borden Counties duly elected and act-

ing as such shall be Clerks of the District Court of the 132nd Judicial District in and for Scurry and Borden Counties, respectively, until the next general election and until their successors are duly elected and

qualified. Such Clerks shall be compensated as provided by law for District Clerks and shall be paid in the same manner.

"Sec. 9. When this Act becomes effective, the Governor of the State of Texas shall, by and with the advice and consent of the Senate of Texas, immediately appoint a suitable person having the qualifications required of Judges of District Courts as Judge of the 132nd Judicial District, who shall hold his office until the next general election and until his successor is duly elected and qualified, and shall be compensated as provided by law.

"Sec. 10. When this Act becomes effective, the Governor of the State of Texas shall, by and with the advice and consent of the Senate of Texas, immediately ap-

point a suitable person having the qualifications required of District Attorneys as District Attorney of the 132nd Judicial District, who shall hold his office until the next general election and until his successor is duly elected and qualified, and shall be compensated as provided by law.

"Sec. 11. The Judge of the District Court of the 132nd Judicial District shall appoint an official shorthand reporter for such Court who shall be well skilled in his profession, and who shall be a sworn officer of the Court and hold office at the pleasure of the Judge of the Court, and shall be compensated as provided by law."

For sections 1-5, 12-14, see Judicial District No. 32.

134.—Dallas. See 14th District ante.

Subd. 134, Acts 1949, 51st Leg., p. 807, ch. 432, creating an additional district court in and for Dallas County, known as the 134th District Court, was amended and supplanted by Acts 1951, 52nd Leg., p. 663, ch. 383, § 1, set out under subds. "14, 44, 68, 95, 101, 116, 134" of this article.

The court was made permanent by Acts 1951, 52nd Leg., p. 163, ch. 101, which read as follows:

"Section 1. The 134th Judicial District Court of Dallas County, Texas, heretofore established as a temporary district court under the terms and provisions of Senate Bill No. 480, [ch. 432] Acts of the Fifty-first Legislature of the State of Texas, Regular Session, 1949, is hereby established as a permanent district court, the limits of which district shall be co-extensive with the limits of Dallas County, Texas.

"Sec. 2. The 134th Judicial District Court being hereby established as a permanent constitutional district court in and for the County of Dallas, Texas, the criminal jurisdiction of said Court is hereby activated and confirmed, and said Court shall hereafter exercise criminal jurisdiction concurrent with that of the Criminal District Court of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas.

"Sec. 3. At the expiration date of the said temporary 134th District Court, the then duly appointed or elected and qualified Judge of said temporary 134th District Court shall continue in office as Judge of said permanent 134th District Court until the next General Election and until his successor shall qualify."

135.—De Witt, Goliad, Jackson, Refugio, Calhoun and Victoria

Section 1. There is hereby created and established an additional District Court in and for DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria Counties, with jurisdiction over civil cases only, the limits of which district shall be co-extensive with the limits of said counties. Said court shall be known as the 135th District Court.

Sec. 2. Immediately upon passage of this law the Governor shall appoint, with the advice and consent of the Senate, a suitable person, having the qualifications provided by the Constitution and laws of the State of Texas for District Judges, as judge of the 135th District Court. He shall hold office as such judge until the next general election, and until his successor shall be duly elected and qualified. Thereafter such judge shall be elected as provided by the Constitution and laws of the State of Texas.

In the County of Refugio 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 Calhoun 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 Victoria 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 DeWitt 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 Goliad 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 Jackson 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.

The judge of said court, in his discretion, may hold as many sessions of court in any term in any county as he may deem proper and expedient for the dispatch of business.

Sec. 4. The district clerk of each of the respective counties included in said Judicial District shall be clerk of the District Court of the 135th Judicial District in such respective counties, and each clerk shall immediately prepare a docket for the 135th District Court.

Sec. 5. The judge of the 24th District Court or the judge of the 135th District Court may hear and dispose of any civil suit or other proceeding on the docket of either of said District Courts of the county in which the action or proceeding is instituted, without the necessity of transferring the action or proceeding from one court to another, and the judges may transfer cases from one court to the other by an order entered on the docket of the court from which the case is transferred, provided that no case shall be transferred without the consent of the judge of the court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending and the clerk of the District Court in said county shall keep the minutes of the court in which shall be recorded all the judgments and orders of the 135th District Court.

Sec. 6. After his appointment and qualification, the judge of the 135th District Court shall appoint an official shorthand reporter, who shall be compensated as provided by law.

Sec. 7. The judges of the 24th and the 135th District Courts shall sign the minutes of each term of said respective courts in each of said counties within thirty (30) days after the end of each term, and each judge shall also sign the minutes of the other court covering such proceedings as were had before him.

Sec. 8. Qualified jurors for service in both said 24th Judicial District Court as well as said 135th Judicial District Court shall be selected by jury commissions in accordance with the provisions of Article 2104 of the Revised Civil Statutes of Texas, as amended, and succeeding Articles.

Sec. 9. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only; as to all other laws and parts of laws, this Act shall be cumulative. Acts 1951, 52nd Leg., p. 498, ch. 306.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 10A—ARCHITECTS**Article 249a. Regulation of practice of architecture****Board of Architectural Examiners created; qualification;
term of office; vacancies**

Sec. 2. There is hereby created a Board of Architectural Examiners to be known as the Texas Board of Architectural Examiners, and such Board shall consist of six (6) reputable practicing architects who have resided in the State of Texas and have been actively engaged in the practice of architecture for five (5) years next preceding their appointment. The term of office of each member of said Board shall be six (6) years, except that as to the first Board appointed hereunder two (2) of its members shall serve for a term of two (2) years, two (2) of its members for a term of four (4) years, and two (2) of its members for a term of six (6) years, the respective terms of the first members so appointed to be designated by the Governor of this State in so appointing them. Within thirty (30) days after this Act becomes effective the six (6) members of said Board shall be appointed by the Governor of this State; two (2) to serve for two (2) years, two (2) to serve for four (4) years, and two (2) to serve for six (6) years, or until their successors shall have been appointed and qualified as provided in this Act. Thereafter, at the expiration of the term of each member first appointed, his successor shall be appointed by the Governor of this State and he shall serve for a term of six (6) years or until his successor shall be appointed and qualified. The present members of the Board of Architectural Examiners of Texas shall remain in office and perform their duties until the new members of the Texas Board of Architectural Examiners provided for in this Act shall have qualified. All vacancies occurring in the membership of said Board shall be filled by appointment by the Governor of this State for the unexpired term of such membership. All appointments to said Board shall be subject to confirmation by the Texas Senate.

Not more than one (1) member of said Board shall be a stockholder or owner of any interest in, nor be a member of the faculty, or board of trustees, or other governing board of, nor be an officer of, any school or college which teaches architecture.

A member of said Board shall not be disqualified for, nor prohibited from, performing any work or rendering any service on any State, county, municipal, or other public building or work for a fee or other direct compensation because of membership on said Board. As amended Acts 1951, 52nd Leg., p. 835, ch. 473, § 1.

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

Sec. 3. The members of the Texas Board of Architectural Examiners shall, before entering upon the discharge of their duties, qualify, by subscribing to, before a Notary Public or other officer authorized by law to administer oaths, and filing with the Secretary of State, the Constitutional oath of office. They shall, as soon as organized, and biennially thereafter in the month of January, elect from their number a chairman, vice-chairman, and secretary-treasurer. The secretary-treasurer, before entering upon his duties, shall file a bond with the Secretary of State for such sum as will be twice the amount of cash on hand at the time the bond is filed; provided, however, that the amount of said bond shall in no case be less than Five Thousand (\$5,000.00) Dollars. Said bond shall be

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

payable to the Governor of this State for the benefit of said Board; shall be conditioned upon the faithful performance of the duties of such officer, and shall be in such form as may be approved by the Attorney General of this State; and shall be executed by a surety company, as surety, and be approved by the Texas Board of Architectural Examiners.

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

The Board shall cause the prosecution of all persons violating any of the provisions of this Act, and may incur the expense reasonably necessary in that behalf. As amended Acts 1951, 52nd Leg., p. 835, ch. 473, § 2.

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

Sec. 4. All fees collected which are provided to be charged by virtue of this Act shall be deposited in the State Treasury, to the credit of a special fund to be known as "Architects Registration Fund," and all expenditures from this fund shall be on order of the Texas Board of Architectural Examiners on warrants issued by the State Comptroller for the purposes and in the amounts fixed by the Legislature of Texas. All disbursements from such fund shall be made only on the written approval or order of the Chairman or Acting Chairman and the secretary-treasurer of such Board; and such disbursements shall not in any way be a charge upon the General Revenue Fund of this State. The Texas Board of Architectural Examiners is hereby authorized to pay all salaries, compensations, and other expenses of the Board, or incurred by said Board in the discharge of its duties, and to employ and to compensate from such special fund employees and such other persons found necessary by the Board to carry out and perform the duties of the Board and to assist in the enforcement of this Act.

If, at any time when the books and records of the Board are audited, as provided for in Section 2 of this Act, it is found that there is more than Ten Thousand (\$10,000.00) Dollars on hand in the hereinabove named Architects Registration Fund, and in the hands of the Board, then all money over and above that total amount, Ten Thousand (\$10,000.00) Dollars, shall be permanently diverted to the General Revenue Fund of this State.

The secretary-treasurer of the Board shall receive such monthly compensation for his services as shall be determined by the Board, but in no case shall such compensation exceed that amount fixed by the Legislature, exclusive of allowable expenses of office. The other members of the Board shall each receive as compensation for their services, in addition to their necessary expenses, the sum of Ten (\$10.00) Dollars for each and every day actually spent by them in attending the business of the Board, going to, attending, and returning from regular and special meetings of said Board, and in conducting examinations of applicants for registration certificates as provided for by this Act, and in prosecuting violations of this Act, but in no case shall the compensation to any one member of the Board, other than the secretary-treasurer of the Board, exceed Six Hundred (\$600.00) Dollars per year, exclusive of allowable expenses. Provided further, the number of employees and the salaries of each shall be as fixed by the Legislature. As amended Acts 1951, 52nd Leg., p. 835, ch. 473, § 3.

Quorum; meetings; rules and regulations

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

The Board shall adopt rules and regulations for the examination and registration of applicants to practice architecture in accordance with the provisions of this Act, and may amend, modify, and repeal such rules and regulations from time to time. The Board shall, within fifteen (15) days after the election of officers thereof, and upon the adoption, modification, or repeal of its rules, regulations or by-laws governing proceedings, or its rules and regulations for examination of applicants for registration certificates, publish in one daily newspaper of general circulation within the State and published in the State, and in an architectural journal published in the State, and if there be none, then in a second daily newspaper published in the State in a city different from that in which the other newspaper is published, at least twice, the name and address of each officer of the Board, and a copy of such rules, regulations, or by-laws, or the amendments, modifications, or repeals thereof. As amended Acts 1951, 52nd Leg., p. 835, ch. 473, § 4.

Certificate; fee; application to practicing architects; copartnerships

Sec. 7. If the result of the examination of an applicant shall be satisfactory to a majority of the Board, under its rules, the Secretary-treasurer shall, upon an order from the Board, issue to the applicant a certificate to that effect and upon payment to the Secretary-treasurer of the Board by the applicant of a fee of Twenty-five Dollars (\$25), he shall thereupon issue and deliver to the person therein named, a registration certificate bearing a serial number authorizing him or her, subject to the provisions of this Act, to practice the profession of architecture in this State for a period of one (1) year from the date of such certificate; provided, however, that same may be renewed from year to year in accordance with the provisions of this Act as set forth in Section 13.

Any person of good moral character who shall, at the time that this Act becomes effective, be practicing architecture in this State as his or

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

In the case of copartnership of architects, each partner must be registered to practice architecture. No firm or partnership shall be registered to practice architecture, but may practice as such provided each member of such firm or partnership is a registered architect in accordance with the provisions of this Act. As amended Acts 1951, 52nd Leg., p. 413, ch. 259, § 1.

Emergency. Effective May 18, 1951.

Amendment by Acts 1951, 53rd Leg., p. 835, ch. 473, § 5, see § 7, post

Certificate; fee; record of certificate; registration certificate; copartnerships

Sec. 7. If the result of the examination of an applicant shall be satisfactory to a majority of the Board, under its rules, the secretary-treasurer shall, upon an order from the Board, issue to the applicant a certificate to that effect and upon payment to the secretary-treasurer of the Board by the applicant of a fee of Twenty-five (\$25.00) Dollars, he shall thereupon record said applicant's name in the official records of the Board as a certificate holder and to issue and deliver, by mailing such certificate to the last known address of such person named therein and authorized to receive such certificate, a registration certificate bearing a serial number authorizing him or her, subject to the provisions of this Act, to practice the profession of architecture in this State for a period of one (1) year from the date of such certificate; provided, however, that same may be renewed from year to year in accordance with the other provisions of the laws governing the renewal of such certificates.

In the case of co-partnership of architects, each partner must be registered to practice architecture. No firm or partnership shall be registered to practice architecture, but may practice as such provided each member of such firm or partnership is a registered architect in accordance with the provisions of this Act. As amended by Acts 1951, 52nd Leg., p. 835, ch. 473, § 5.

Amendment by Acts 1951, 52nd Leg., p. 413, ch. 259, § 1, see § 7, ante

Practicing architects from other states; fees

Sec. 8. An architect of good moral character who has lawfully practiced architecture for a period of ten (10) years or more outside this State, or partly within and partly without this State, may be required at the discretion of the Board, in order to obtain a registration certificate to practice architecture in this State, to take only a practical examination the nature of which shall be prescribed by the Texas Board of Architectural Examiners, provided that as a condition precedent to the issuance of a registration certificate to such applicant, the Board may require him or

her to furnish and file evidence satisfactory to the Board that he or she has not been restrained from practicing architecture in any other State or jurisdiction on account of negligence, incompetency, recklessness, dishonesty, or other causes to be grounds for the revocation of a registration certificate in this State, or that no registration certificate or other license, or permit to practice architecture, theretofore issued to him or her has ever been so revoked, and upon failure of the applicant to furnish and file such satisfactory evidence, the Board may, in its discretion, refuse to issue a registration certificate to him or her authorizing him or her to practice architecture in this State.

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

The fee to be paid by an architect of another State or country, applying for his or her original registration certificate to practice architecture in this State, shall be the sum of Thirty (\$30.00) Dollars. As amended Acts 1951, 52nd Leg., p. 835, ch. 473, § 6.

Exemption from examinations; fee

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

The fee to be paid by an applicant for a registration certificate, under this section of this Act, shall be the sum of Twenty-five (\$25.00) Dollars. As amended Acts 1951, 52nd Leg., p. 835, ch. 473, § 7.

Seal to be used by architect

Sec. 10. Every registered architect shall obtain and keep a seal, such as is authorized, prescribed, and approved by the Texas Board of Architectural Examiners, with which he or she shall stamp all drawings or specifications issued from his or her office for use in this State. The design of the seal shall be the same as that to be used by the Texas Board of Architectural Examiners as provided for in Section 2 of this Act, except that it shall bear the words "Registered Architect, State of Texas," instead of "Texas Board of Architectural Examiners." As amended Acts 1951, 52nd Leg., p. 835, ch. 473, § 8.

Revocation or cancellation of certificates

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

The registration certificate and right of any person to practice architecture in this State may be revoked and cancelled by any District Court of this State, in a suit by the State upon the relation of the Texas Board of Architectural Examiners, upon the proof of the violation of the law in any respect in regard thereto, or for any cause for which the Texas Board of Architectural Examiners is authorized to refuse to grant registration certificates, or for proof of gross incompetency, or for recklessness in the construction of buildings on the part of the architect designing, planning, or supervising the construction or alteration of same, or for dishonest practice on the part of the holder of such registration certificate; and when requested by the Board, the several District and County Attorneys of this State shall have the authority, and it shall be their duty, to file and prosecute appropriate judicial proceedings in the name of the State against such persons. The venue of each suit shall be in the county of the residence of the holder of such registration certificate. As amended Acts 1951, 52nd Leg., p. 835, ch. 473, § 9.

Annual fee; certificate of renewal; failure to obtain renewal; 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, a certificate of renewal of his or her registration certificate for the term of one (1) year. In 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. 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 1951, 52nd Leg., p. 413, ch. 259, § 1.

Amendment by Acts 1951, 52nd Leg., p. 835, ch. 473, § 10, see § 13, post

**Annual fee; certificate of renewal; failure to obtain renewal;
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 (\$10.00) Dollars, and the secretary-treasurer shall thereupon issue to such registered architect a certificate of renewal of his or her registration certificate for the term of one (1) 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 make an entry of all such revocations upon the page of the Register of Architects containing the record of the registration certificate which is revoked; and it shall also be the duty of the secretary-treasurer of the Board to mail a notice of such revocation to such architect at his last known address. 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 (\$15.00) Dollars 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 (\$30.00) Dollars; and provided that a registered architect, as herein defined, who is on active duty as a member of the Armed Forces of the United States of America 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 1951, 52nd Leg., p. 835, ch. 473, § 10.

Amendment by Acts 1951, 52nd Leg., p. 413, ch. 259, § 1, see § 13, ante.

Sec. 14. Repealed. Acts 1951, 52nd Leg., p. 835, ch. 473, § 11.

Emergency. Effective June 21, 1951.

Section 12 repealed conflicting laws and parts of laws, both general and special. Section 13 read as follows: "If any word, phrase, clause, section, paragraph, or sentence of this Act shall be declared uncon-

stitutional, it is hereby declared to be the intention of the Legislature that the remainder of such Act shall not be affected thereby and shall remain in full force and effect."

TITLE 14—ATTORNEYS AT LAW

Art. 319. 334, 271, 236 Officers not to appear

No judge or clerk of the Supreme Court, Courts of Civil or Criminal Appeals, or District Court, or sheriff or deputy, or constable, shall be allowed to appear and plead as an attorney at law in any Court of record in this State. No county judge or county clerk who is licensed to practice law shall be allowed to appear and practice as an attorney at law in any County or Justice Court, except in cases where the Court over which such judge presides, or over which such clerk is clerk has neither original nor appellate jurisdiction. No county clerk who is licensed to practice law shall be allowed to appear and practice as an attorney at law in any District Court, Court of Civil Appeals, Court of Criminal Appeals, or the Supreme Court unless the Court of which such clerk is clerk has neither original nor appellate jurisdiction. As amended Acts 1951, 52nd Leg., p. 452, ch. 279, § 1.

Emergency. Effective May 19, 1951.

TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

1. DISTRICT ATTORNEYS

- Art.
326k—14. Fifty-third district; compensation of district attorney and assistants [New].
- 326k—15. Seventy-ninth judicial district; assistant district attorney; special investigator [New].
- 326k—16. One hundred and sixth judicial district; assistant, investigators and stenographer [New].
- 326k—17. Forty-ninth judicial district; assistant district attorney, investigator and stenographer for Webb county [New].

Art.

- 326k—18. Assistants, investigators and stenographers in 51st and 119th Judicial Districts [New].
- 326k—19. Stenographer in districts of two or more counties [New].
- 326k—20. Stenographer for district attorney in 100th Judicial District [New].
- 326k—21. Assistant district attorney and stenographer in 27th Judicial District [New].

2. COUNTY ATTORNEYS

- 331g. Assistants and investigator in counties of 100,000 having no district attorney [New].

1. DISTRICT ATTORNEYS

Art. 326k—12. Counties of 70,000 to 220,000 and counties of 39,000 to 50,000; 30th Judicial District

Sec. 2-a. Provided, that in the 30th Judicial District of Texas, the salary of the investigators and assistants appointed by the district attorney may be fixed at a sum not more than Four Thousand, Eight Hundred Dollars (\$4,800) per annum, and the salary of the stenographer appointed by the district attorney may be fixed at a sum not more than Three Thousand Dollars (\$3,000) per annum. Added Acts 1951, 52nd Leg., p. 206, ch. 121, § 1.

Emergency. Effective May 2, 1951.

Section 2 of the amendatory Act of 1951 repealed conflicting laws, general or special.

Art. 326k—14. Fifty-third district; compensation of district attorney and assistants

Section 1. The District Attorney of the 53rd Judicial District Court of this State shall be paid a salary in an amount not to exceed the salary paid to the District Clerk of said Court. The first Assistant District Attorney of said Court shall receive a salary of Five Thousand, Five Hundred Dollars (\$5,500) per year and the other Assistant District Attorneys and Investigators shall receive salaries not to exceed Five Thousand Dollars (\$5,000) per year.

Sec. 2. The Commissioners Court of the 53rd Judicial District is hereby authorized to pay the salaries provided in Section 1 of this Act or to supplement the salaries of the District Attorney and first Assistant District Attorney paid by the State of Texas in such an amount that the total salaries paid shall not exceed the maximum provided for in Section 1 hereof. The present law relating to the manner of selecting, determining the number and fixing the amount of the actual salaries to be paid the Assistant District Attorneys and Investigators, including the first Assistant, shall remain in full force and effect.

Sec. 3. If any paragraph, phrase, clause or section of this Statute be held invalid, it shall not affect the balance of said Statute, but it is expressly declared to be the intention of the Legislature that it would

have passed the balance of said Act without such portion as may be held invalid. Acts 1951, 52nd Leg., p. 85, ch. 55.

Emergency. Effective April 16, 1951.

Art. 326k—15. Seventy-ninth judicial district; assistant district attorney; special investigator

Section 1. From and after the passage of this Act, the District Attorney of the 79th Judicial District of Texas, is hereby authorized to appoint an Assistant District Attorney, whose qualifications and authority shall be the same as now required by law for District Attorneys, and he shall take the oath and execute the bond required by law. Said Assistant District Attorney shall receive a salary of not less than Three Thousand, Six Hundred (\$3,600.00) Dollars per annum, nor more than Five Thousand (\$5,000.00) Dollars per annum, payable monthly, the amount of such salary to be fixed by the District Attorney with the approval of the Commissioners Courts of the counties comprising the 79th Judicial District. Provided, however, in event that any Commissioners Court of any county comprising said Judicial District shall fail to approve the appointment of an Assistant District Attorney by the District Attorney of said 79th Judicial District, then, in that event, said county shall not be required to participate in the payment of the salary of said appointed Assistant District Attorney, and no funds of any county whose Commissioners Court shall fail to approve such appointment shall be devoted or used for that purpose.

Sec. 2. That from and after the passage of this Act, the District Attorney of the 79th Judicial District is hereby authorized to appoint a Special Investigator for Starr County, Texas, with the approval of the Commissioners Court of said county, to perform such duties in said county as may be assigned to him by the District Attorney of the 79th Judicial District. Such Special Investigator shall have authority to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws, and shall have the same authority, in Starr County, in the 79th Judicial District, as the Sheriff in said county has, all under the authority of the District Attorney of the 79th Judicial District. Such Special Investigator shall also serve as a probation officer within Starr County, Texas, in the 79th Judicial District of Texas, under the direction of the District Judge of the 79th Judicial District. Said Special Investigator shall receive a salary of not less than Twenty-four Hundred (\$2400.00) Dollars per annum, nor more than Five Thousand (\$5000.00) Dollars per annum, payable monthly, the amount of such salary to be fixed by the District Attorney of the 79th Judicial District, with the approval of the Commissioners Court of Starr County, Texas. Such Special Investigator shall be required to make a bond in the amount and sum to be fixed by the District Attorney and to execute an oath of office.

Sec. 3. The salary of such Assistant District Attorney shall be paid monthly, one-fourth ($\frac{1}{4}$) each, by each of the four counties composing said 79th Judicial District, by the Commissioners Court of each of said counties out of the General Fund of said county.

Sec. 3a. The salary of the Special Investigator shall be paid monthly by the Commissioners Court of Starr County, Texas, out of the General Fund of said county. Acts 1951, 52nd Leg., p. 91, ch. 58.

Emergency. Effective April 20, 1951.

Section 4 of the act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict only, Section 5 read as follows: "If any section, subsection, sen-

tence, 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 intention of the Legis-

lature in adopting, and of the Governor in approving this Act, that no portion thereof or provision contained therein shall become

inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision."

Art. 326k—16. One hundred and sixth judicial district; assistant, investigators and stenographer

Section 1. From and after the passage of this Act, the district attorney of the 106th Judicial District, composed of the Counties of Terry, Lynn, Garza, Dawson, Gaines, and Yoakum, with the consent of the district judge of the 106th Judicial District and the combined majority of the Commissioners Courts of the Counties composing the 106th Judicial District, is hereby authorized to appoint not more than two (2) investigators or assistants. Such investigators or assistants shall receive a salary of not less than Three Thousand Dollars (\$3,000) and not to exceed Four Thousand Dollars (\$4,000) per annum each. The salaries shall be fixed by the Commissioners Court of the several Counties composing the 106th Judicial District.

Sec. 2. The assistants to the district attorney must be duly and legally licensed to practice law in the State of Texas; however, the investigators need not be duly and legally licensed to practice law in the State of Texas.

Sec. 3. The investigators or assistants provided for in this Act shall be allowed a reasonable amount for expenses not to exceed Twelve Hundred Dollars (\$1200) per annum.

Sec. 4. The district attorney of the 106th Judicial District shall be authorized to employ a stenographer, who shall receive a salary not to exceed Twenty-four Hundred Dollars (\$2400) per annum, such salary to be fixed by the district judge.

Sec. 5. The salary of the investigators, assistants, and stenographer provided for in this Act and the expenses provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the 106th Judicial District out of the Officers' Salary Fund of the county. Such salary and expenses shall be prorated according to the population of the respective counties.

Sec. 6. The investigators or assistants provided for in this Act may be required to give bond and shall have authority under the direction of the district attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws. Acts 1951, 52nd Leg., p. 113, ch. 68.

Emergency. Effective April 20, 1951.

Section 7 of the Act of 1951 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 326k—17. Forty-ninth judicial district; assistant district attorney, investigator and stenographer for Webb county

Section 1. The District Attorney of the 49th Judicial District shall appoint one (1) Assistant District Attorney for Webb County, provided that the District Attorney shall furnish data to the County Judge of Webb County that he is in need of an Assistant and is himself unable to attend to all the duties required of him by law and that it is necessary and to the best interest of the State and said County that an Assistant District Attorney be appointed. Said Assistant District Attorney so appointed shall be a qualified resident of Webb County and shall give bond and take the official oath; and said Assistant District Attorney shall be a qualified licensed Attorney and shall have authority to perform all the acts and duties of the District Attorney in Webb County under the laws of this

State; said appointment shall be for such time as the District Attorney shall deem best in the enforcement of the law, not to be less than one (1) month. Said Assistant District Attorney shall be paid by Webb County for the time of actual service rendered at a rate not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum, in twelve (12) equal monthly installments out of the County Funds by warrants drawn upon such County Funds. Said sum shall be paid upon certificate of the District Attorney of said District, that said Assistant District Attorney has performed his duties and is entitled to pay. The District Attorney of said District, at any time he deems said Assistant unnecessary or finds that he is not attending to his duties as required by law, may remove said person from office by merely writing to said County Judge to that effect.

Sec. 2. Said District Attorney is hereby authorized to appoint one (1) Assistant to serve in Webb County in addition to his legal assistant provided for in this Act, which Assistant shall not be required to possess the qualifications prescribed by law for District or County Attorneys, which said Assistant shall be known as Special Investigator, and who shall perform such duties as may be assigned to him by the District Attorney, and who shall receive as compensation a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable monthly out of the County Funds by warrants drawn on such County Funds.

Said Special Investigator shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Sec. 3. The District Attorney is hereby authorized with the consent of the County Judge and the Commissioners Court of Webb County to appoint one (1) Stenographer who may or may not possess the qualifications prescribed by law for District and County Attorneys, and who shall perform the necessary stenographic work as may be assigned to him by the District Attorney, and who shall receive as compensation a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable monthly out of the County Funds by warrants drawn on such County Funds.

Sec. 4. This Act is not intended and shall not be considered or construed as repealing any law now in the Statute books, but shall be cumulative thereof, and further, that it shall be cumulative of all laws not in conflict with the provisions hereof. Acts 1951, 52nd Leg., p. 395, ch. 253.

Emergency. Effective May 17, 1951.

Title of Act:

An Act authorizing the appointment of an Assistant District Attorney, a Special Investigator for the District Attorney, and a Stenographer for the District Attorney of the 49th Judicial District to act in Webb County; fixing the salary of said Assistant

District Attorney, Special Investigator, and Stenographer to be paid by Webb County; providing this Act shall not be construed as repealing any existing Statutes but shall be cumulative thereof and cumulative of all laws not in conflict with the provisions hereof; and declaring an emergency. Acts 1951, 52nd Leg., p. 395, ch. 253.

Art. 326k—18. Assistants, investigators and stenographers in 51st and 119th Judicial Districts

Section 1. The district attorney for the 51st Judicial District, composed of the Counties of Tom Green, Irion, Schleicher, Coke, and Sterling, with the consent of the district judges of the 51st Judicial District and the 119th Judicial District, is hereby authorized to appoint an assistant district attorney and an investigator for the district attorney of such district.

Sec. 2. The district attorney for the 119th Judicial District, composed of the Counties of Coleman, Concho, Runnels, and Tom Green, with the consent of the district judges of the 119th Judicial District and the 51st

Judicial District, is hereby authorized to appoint an assistant district attorney and an investigator for the district attorney of such District.

Sec. 3. The assistant district attorneys provided for in this Act must be duly and legally licensed to practice law in this State. The investigators provided for in this Act need not be licensed to practice law. The assistants or investigators may be required to give bond and shall have authority under the direction of the district attorney to make arrests and to execute process in criminal cases and in cases growing out of the enforcement of all laws.

Sec. 4. In addition to the assistants and investigators provided for in this Act the district attorney of the 51st Judicial District and the district attorney of the 119th Judicial District shall each be authorized to employ a stenographer who shall receive a salary not to exceed Twenty-four Hundred Dollars (\$2400) per annum, such salary to be fixed by the district attorney of the respective Districts and approved by the District Judges of the 51st and the 119th Judicial Districts.

Sec. 5. The assistants and investigators provided for in this Act shall receive a salary of not less than Three Thousand Dollars (\$3,000) nor more than Four Thousand Dollars (\$4,000) per annum each, said salary to be fixed by the district attorney of the respective Districts and approved by the District Judges of the 51st and 119th Judicial Districts. In addition to their salaries the investigators, assistants, and district attorneys shall be allowed the actual and necessary expense incurred in the proper discharge of their duties never to exceed Eleven Hundred Dollars (\$1100) per annum each.

Sec. 6. The salaries and expenses of the assistant district attorneys, investigators, and stenographers provided for in this Act shall be paid out of the general fund of the county, prorated according to the population of the counties composing the Judicial Districts. Acts 1951, 52nd Leg., p. 598, ch. 352.

Emergency. Effective June 2, 1951.

Section 7 of the Act of 1951, repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 326k—19. Stenographer in districts of two or more counties

Any district attorney in the State of Texas in a judicial district containing two (2) or more counties is authorized to employ a stenographer or clerk who shall receive a salary not to exceed Twenty-four Hundred (\$2,400.00) Dollars per annum, to be fixed by the district attorney and approved by the combined majority of the Commissioners Courts of the counties composing his judicial district. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the judicial district, pro-rated apportionately to the population of the county. Acts 1951, 52nd Leg., p. 617, ch. 365, § 1.

Emergency. Effective June 2, 1951.

Section 2 of the Act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act authorizing district attorneys in judicial districts containing two (2) or

more counties to employ a stenographer or clerk; prescribing the compensation of such stenographer or clerk; repealing all laws in conflict herewith; and declaring an emergency. Acts 1951, 52nd Leg., p. 617, ch. 365.

Art. 326k—20. Stenographer for district attorney in 100th Judicial District

Section 1. The District Attorney of the 100th Judicial District of Texas is hereby authorized to appoint a stenographer who shall receive a

salary not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum. Said salary shall be fixed and determined by the District Attorney of said Judicial District, and the District Attorney shall file with the Commissioners Court of each county in said District a statement specifying the amount of salary to be paid said stenographer. Said salary shall be paid monthly by the Commissioners Court of each county comprising said District in the manner and on the same pro-ratio basis as that contained in the order of the District Judge of such Districts for the payment of the salary of the official shorthand reporter.

The Commissioners Court of the county in which the District Attorney resides shall furnish the District Attorney with adequate office space and the supplies necessary to the efficient operation of said office.

Sec. 2. This Act shall be cumulative of all laws and parts of laws of this State upon the subject matter of this Act, when not in conflict with the provisions of this Act, and, in case of any such conflict herewith, in whole or in part, the provisions of this Act shall be effective and shall take precedence and control. Acts 1951, 52nd Leg., p. 640, ch. 374.

Emergency. Effective June 2, 1951.

Title of Act:

An Act authorizing the appointment of a stenographer for the District Attorney of the 100th Judicial District of Texas; providing for furnishing office space and office supplies to the District Attorney of said

district; providing that this Act shall be cumulative of existing laws upon the same subject matter except that the provisions of this Act shall control in event of conflict; and declaring an emergency. Acts 1951, 52nd Leg., p. 640, ch. 374.

Art. 326k—21. Assistant district attorney and stenographer in 27th Judicial District

From and after the passage of this Act the District Attorney of the 27th Judicial District, with the consent of each of the Commissioners Courts comprising such judicial district, is authorized to appoint an assistant District Attorney and a stenographer for such district. The Assistant District Attorney shall be paid an annual salary not to exceed Four Thousand, Two Hundred Dollars (\$4,200) per annum and the stenographer shall be paid an annual salary not to exceed Three Thousand Dollars (\$3,000) per annum. The salaries of such Assistant District Attorney and stenographer shall be paid from the Officers Salary Fund of the counties comprising said judicial district and the amount to be paid by each county shall be determined according to population. The Assistant District Attorney must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed upon the District Attorney by law. Acts 1951, 52nd Leg., p. 802, ch. 445, § 1.

Emergency. Effective June 15, 1951.

Title of Act:

An Act authorizing the appointment of an Assistant District Attorney and stenog-

rapher and providing salaries therefor for the 27th Judicial District; and declaring an emergency. Acts 1951, 52nd Leg., p. 802, ch. 445.

2. COUNTY ATTORNEYS

Art. 331g. Assistants and investigator in counties of 100,000 having no district attorney

Section 1. In all counties in this State having a population of not less than one hundred thousand (100,000) or more inhabitants, according to the last preceding Federal Census, in which there is no district attorney and where the county attorney performs the duties of the district attorney, the Commissioners Courts, upon recommendation of the county attorneys, are hereby authorized to appoint assistant county attorneys to

aid such county attorneys in the performance of their duties, provided, however, that no Commissioners Court shall be authorized to appoint more than four (4) assistants.

Sec. 2. The Commissioners Court in such counties shall fix the salaries of the assistant county attorneys not to exceed the following amounts: The salaries of the first three (3) assistants, who shall be duly licensed attorneys at law, shall be fixed at any amount not to exceed Five Thousand Dollars (\$5,000) per annum each; the salary of the next assistant, who shall be a duly licensed attorney at law, shall be fixed at a sum not to exceed Forty-five Hundred Dollars (\$4500) per annum.

Sec. 3. The assistant county attorneys provided for in this Act shall perform such duties as may be assigned to them by the county attorney.

Sec. 4. In addition to the assistants provided for in this Act, such Commissioners Courts are hereby authorized to employ an investigator and fix his salary at any sum not to exceed Thirty-six Hundred Dollars (\$3600) per annum, who shall perform such duties as are assigned to him by the county attorney.

Sec. 5. The investigator provided for in this Act, in addition to his salary, may be allowed repair and maintenance expense for any automobile owned and used by such investigator in the actual discharge of official duties never to exceed Fifty Dollars (\$50) per month. The automobile expense provided for herein shall be paid out of the Officers Fund when approved by the county attorney.

Sec. 6. All salaries provided for in this Act shall be paid by the county out of the Officers Salary Fund.

Sec. 7. If any section, subsection, sentence, clause or phrase of this Act is held unconstitutional, such invalid portion shall not affect the remaining portions of this Act, and the Legislature declares it would have enacted the remaining portion with the invalid portion omitted.

Sec. 8. This Act is hereby declared to be cumulative of all acts relating to the appointment of assistant county attorneys in the counties coming under the terms of this Act. Acts 1951, 52nd Leg., p. 365, ch. 230.

Emergency. Effective May 17, 1951.

Title of Act:

An Act providing for the appointment of assistant county attorneys and investigators in certain counties; prescribing their qualifications and duties; providing for their compensation; providing for re-

pair and maintenance expense of automobiles owned and used by investigators; providing a severability clause; making the Act cumulative of other laws on the subject; and declaring an emergency. Acts 1951, 52nd Leg., p. 365, ch. 230.

TITLE 16—BANKS AND BANKING

TEXAS BANKING CODE OF 1943

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

Art. 342—101A. Short title of amendatory act [New].	Art. 342—112A. Transfers to general revenue fund [New].
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Art. 342—101A. Short title of amendatory act

This Act may be cited as the "Banking Department Self-Support and Administration Act." Acts 1951, 52nd Leg., p. 233, ch. 139, § 14.

Art. 342—112. Reports by Commissioner—Examinations and audits—Fees, penalties and revenues—Expenses—Budgets—Reports to Governor and Legislature

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. In addition, the Banking Department shall be audited from time to time by the State Auditor in the same manner as other State Departments, and the actual costs of such audits shall be paid to the State Auditor from the funds of the Banking Department. Fees, penalties and revenues collected by the Banking Department from every source whatsoever shall be retained and held by said Department, and no part of such fees, penalties and revenues shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the Banking Department shall be paid only from such fees, penalties and revenues, and no such expense shall ever be a charge against the funds of this State. The Finance Commission shall adopt, and from time to time amend, budgets which shall direct the purposes, and prescribe the amounts, for which the fees, penalties and revenues of the Banking Department shall be expended; and the Finance Commission shall, as of December 31, 1951, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements of the Banking Department for each calendar year; and shall within the first sixty (60) days of each succeeding Regular Session of the Legislature make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to banking. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Sections 15, 17 and 18 of the amendatory Act of 1951, read as follows:

"Sec. 15. All fees and revenues collected by the Banking Department for all prior fiscal years which are on deposit in the State Treasury at the effective date of this Act, except fees and revenues against which State warrants are then outstanding, are hereby appropriated to the Banking Department, to be retained and held by said department under the provisions of this Act, and to be expended only for the

expenses of said department. All moneys in the 'Cemetery Perpetual Care Enforcement Fund' in the State Treasury at the effective date of this Act, except moneys against which State warrants are then outstanding, are hereby appropriated to the Banking Department, to be held and expended by it as provided in Section 6 of this Act [912a—3].

"Sec. 17. All laws and parts of laws in conflict with any provision of this Act are hereby repealed.

"Sec. 18. If any portion of this Act is for any reason held unconstitutional, the

unconstitutionality thereof shall not affect the remaining portion of the Act, and the Legislature hereby declares that it would have passed the Act, and each part thereof, irrespective of the fact that some part thereof might be declared unconstitutional."

Art. 342—112A. Transfers to general revenue fund

The Banking Department shall cause to be transferred each year of the biennium the sum of Four Thousand Dollars (\$4,000) to the General Revenue Fund, to cover the cost of governmental service rendered by other departments. Acts 1951, 52nd Leg., p. 233, ch. 139, § 1-A.

CHAPTER TWO—THE BANKING DEPARTMENT OF TEXAS

Art.
342—208A. Fees payable when no examination made [New].

Art. 342—201. Banking Commissioner—Election—Qualification—Compensation

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 Commissioner shall receive such compensation as is fixed by the Finance Commission, but never to exceed the compensation now paid to the Governor of the State. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 9.

Effective 90 days after June 8, 1951, date of adjournment.

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

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, be vested with all of the powers and perform all of the duties of the Commissioner. The Deputy Commissioner shall receive such compensation as is fixed by the Finance Commission. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 10.

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

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 Departmental Bank Examiner shall receive such compensation as is fixed by the Finance Commission. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 11.

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

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 and each assistant examiner shall receive such compensation as shall be fixed by the Finance Commission. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 12.

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

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. All such officers and employees shall receive such compensation as shall be fixed by the Finance Commission. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 13.

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

The Commissioners shall examine each state bank twice each year and no more, unless he deems additional examinations necessary to safeguard the interest of depositors, creditors, and stockholders, and to enforce the provisions of the Banking Code of 1943. 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 the Banking Code of 1943, 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 the Banking Code of 1943, together with all other expenses of the Banking Department, which fee 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 any law of this State, shall be retained by the Banking Department and shall be expended only for the expenses of said Department. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 2.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 342—208A. Fees payable when no examination made

On the twenty-eighth day of February of each year, each state bank that has not been examined and paid an examination fee, shall be assessed and shall pay to the Banking Department a fee equivalent to that which it would have paid had it been examined on the twenty-eighth day of February of that year; and, likewise, each state bank that has not on the thirty-first day of August of each year been examined at least twice

during that calendar year, and has not paid a fee for two (2) examinations, shall be assessed and shall pay to the Banking Department on the thirty-first day of August a fee equivalent to the fee that the Bank would have paid had it been examined on that day. Acts 1951, 52nd Leg., p. 233, ch. 139, § 16.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 19A—THE SECURITIES ACT**Art. 600a. The Securities Act****Exempt transactions**

Sec. 3. Except as hereinafter in this Act specifically provided, the provisions of this Act shall not apply to the sale of any security when made in any of the following transactions and under any of the following conditions, and the company or person engaged therein shall not be deemed a dealer within the meaning of this Act; that is to say, the provisions of this Act shall not apply to any sale, offer for sale, solicitation, subscription, dealing in or delivery of any security under any of the following transactions or conditions:

(a) At any judicial, executor's, administrator's, guardian's or conservator's sale, or any sale by a receiver or trustee in insolvency or bankruptcy.

(b) The sale by or for the account of a pledge holder or mortgagee, selling or offering for sale or delivery in the ordinary course of business to liquidate a bona fide debt, of a security pledged in good faith as security for such debt.

(c) Sales of securities made by, or in behalf of a vendor in the ordinary course of bona fide personal investment of his personal holdings, or change of such investment, if such vendor is not otherwise engaged either permanently or temporarily in selling securities; provided, that in no event shall such sales or offerings be exempt from the provisions of this Act when made or intended, either directly or indirectly, for the benefit of any company or corporation within the purview of this Act.

(d) The distribution by a corporation of securities direct to its stockholders as a stock dividend or other distribution paid out of earnings or surplus.

(e) The sale of an increase of capital stock of a corporation only to its stockholders and without payment of any commission or expense to any officer, employee, broker or agents, and without incurring any liability for any expenses whatsoever in connection with such distribution.

(f) The issue in good faith of securities by a company to its security holders, or creditors, in the process of a bona fide reorganization of the company made in good faith, or the issue in good faith of securities by a company, organized solely for the purpose of taking over the assets and continuing the business of a predecessor company, to the security holders or creditors of such predecessor company, provided that in either such case such securities are issued in exchange for the securities of such holders or claims of such creditors, or both, and in either such case such security holders or creditors do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued other than the securities of or claims against said company or its predecessor then held or owned by them.

(g) The transfer or exchange by, or on account of, one corporation to another or to its stockholders of their or its own securities in connection with a proposed consolidation or merger of such corporation, or in connection with the change of par value stock to non-par value stock or vice versa, or the exchange of outstanding shares for a greater or smaller number of shares, provided that in such case such stockholders do not pay or give or promise and are not obligated to pay or give any consideration for the securities so transferred or exchanged other than the securities of said corporation then held by them.

(h) The sale by a domestic corporation of its stock forfeited for a delinquent assessment, according to law.

(i) The sale to any bank, trust company, loan and brokerage corporation, building and loan association, insurance company, surety or guaranty company, savings institution or to any registered dealer, provided such dealer is actually engaged in buying and selling securities.

(j) The sale by any domestic corporation of its stock or other securities issued in good faith and not for the purpose of avoiding the provisions of this Act, so long as the total number of stockholders and security holders of said corporation does not and will not after such sale exceed twenty-five (25) and the securities are issued and disposed of without the use of advertisements, circulars, agents, salesmen, solicitors, or any form of public solicitation.

(k) The sale of an interest in any partnership, pool, or other company, not a corporation, the total membership of which does not and will not after such sale exceed ten (10), and the organization expenses of which do not or will not exceed two (2%) per cent of the total invested capital of such company.

(l) Subscriptions to capital stock necessary to qualify for incorporation when subscribed by not more than fifteen (15) incorporators in a proposed Texas corporation.

(m) Wherein the securities disposed of consist exclusively of notes or bonds secured by mortgage or vendor's lien upon real estate or tangible personal property, and the entire mortgage is sold or transferred with all of the notes or bonds secured thereby in a single transaction.

(n) Any security or membership issued by a corporation or association, organized exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any stockholder, shareholder, or individual member, and where no commission or remuneration is paid or given or is to be paid or given in connection with the disposition thereof.

(o) The sale by the issuer itself, of any securities that are issued by a State or National Bank, by a trust company, or building and loan association organized and operating under the laws of the State of Texas and subject to the supervision of the Commissioner of Banking of the State of Texas, or Federal Loan and Savings Association, or a company subject to the supervision of the Banking Commissioner under Senate Bill No. 165, 42nd Legislature,¹ provided, however, that all salesmen acting for any bank, trust company, or company subject to the supervision of the Banking Commissioner under Senate Bill No. 165, 42nd Legislature, in the sale of such securities within this State, shall be licensed as provided in this Act.

(p) The sale, by the issuer itself, of any securities that are issued by the United States, any political subdivision or agency thereof, any territory or insular possession of the United States, the State of Texas, any State of the United States, the District of Columbia, or by any county, city, municipal corporation, district or political subdivision of the State of Texas or any authorized agency of the State of Texas.

(q) The sale and issuance of any securities issued by any farmers cooperative association organized under Chapter 8 of Title 93, Articles 5737-5764, inclusive, Revised Civil Statutes of Texas as amended; and the sale of any securities issued by any farmers cooperative society organized under Chapter 5 of Title 46, Articles 2514-2525, inclusive, Revised Civil Statutes of Texas. Provided, however, this exemption shall not be applicable to agents and salesmen of any farmers cooperative association

or farmers cooperative society when the sale of such securities is made to non-members, or when the sale of such securities is made to members or non-members and a commission is paid or contracted to be paid to the said agent or salesmen.

(r) The sale by a dealer, while registered as such under this Act and not then being under any order or rule of suspension or revocation of his rights or privileges to act as a dealer by any State or Federal regulatory authority, of securities which have theretofore been issued to the public in this, or in any other State, in compliance with any applicable law regulating the issuance and sale of such securities, by an entity domiciled in the United States and which securities then form no part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer thereof or by or through an underwriter thereof when such securities are offered for sale, in good faith, at prices reasonably related to current market price of such securities at the time of such sale; provided that (1) no part of the proceeds of such sale are intended to inure, either directly or indirectly, to the benefit of the issuer of such securities, (2) such sale is neither directly nor indirectly for the purpose of promoting any scheme or enterprise having the effect of violating or evading any of the provisions of this Act, (3) the right to sell or resell such securities has not been enjoined by any court of competent jurisdiction, (4) the right to sell such securities has not been revoked or suspended by the Secretary of State under any of the provisions of this Act or, if so, such revocation or suspension is not in force and effect, (5) at the time of such sale information as to the issuer of such securities shall appear in a nationally distributed manual of securities or is furnished in writing to the Secretary of State in form and extent acceptable to the Secretary of State, such information to include at least a statement of the issuer's principal business, a statement of the assets and liabilities of such issuer as of a date not more than eighteen (18) months prior to the date of such sale and a net income and dividend record, if any, of such issuer for a period of not less than three (3) complete fiscal years ended not more than six (6) months next prior to the date of such sale or for the period that the issuer has actually been engaged in business if the issuer has been in business for less than three (3) years, and (6) at the time of such sale the issuer of such securities shall be a going concern actually engaged in pursuing the principal purpose or purposes for which it was organized and shall not then be in an organizational stage nor in receivership or bankruptcy; provided, however, the exemption provided for by this subsection shall not exist unless on or before the expiration of seven (7) days after completion of such sale the dealer shall mail or deliver to the Secretary of State notification of the fact of such sale, naming the security sold and, if such security is listed in a nationally distributed manual of securities, the name of such manual. The Secretary of State shall maintain a list of securities which may be sold without the necessity of notification of sales thereof being made to the Secretary of State in order for such sales to be exempt transactions if all other conditions of this subsection are met; the Secretary of State may, in the exercise of a reasonable discretion, add to or delete from such list at any time.

The Secretary of State may by order revoke or suspend the exemption under this subsection with respect to any security if he has reasonable cause to believe that the plan of business of the issuer of such security, the security, or the sale thereof would work or tend to work a fraud or deceit upon any purchaser or purchasers thereof, such order to be subject to judicial review in the manner provided generally for similar ap-

peals by Section 28 of this Act. As amended Acts 1951, 52nd Leg., p. 624, ch. 370, § 1.

1 Article 1524a.

Effective 90 days after June 8, 1951, date of adjournment.

Permit for issue by Secretary of State; information for issuance

Sec. 5. No dealer, agent or salesman shall sell or offer for sale any securities issued after the passage of this Act, except those which come within the classes enumerated in Subdivisions (a) to (r), both inclusive, of Section 3 of this Act, or Subdivisions (a) to (i), both inclusive, of Section 23 of this Act, until the issuer of such securities or a dealer registered under the provisions of this Act shall have been granted a permit by the Secretary of State; and no such permit shall be granted by the Secretary of State until the issuer of such securities or a dealer registered under the provisions of this Act shall have filed with the Secretary of State, a sworn statement, verified under the oath of an executive officer or partner of the issuer, or of such registered dealer, and attested by the secretary or partner thereof, setting forth the following information:

(a) The names, residences and post office addresses of the officers and directors of the company;

(b) The location of its principal office and of all branch offices in this State, if any;

(c) A copy of its articles of incorporation or partnership or association, as the case may be, and of any amendments thereto, if any; if a corporation, a copy of all minutes of any proceeding of its directors, stockholders or members relating to or affecting the issue of said security; if a corporation, a copy of its by-laws and of any amendments thereof; if a trustee, a copy of all instruments by which the trust is created and in which it is accepted, acknowledged or declared;

(d) A statement showing the amount of capital stock, if any, and if no capital stock, the amount of capital of the issuer that is contemplated to be employed; the number of shares into which such stock is divided, or if not divided into shares of stock, what division is to be made or is contemplated; the par value of each share, or if no par stock, the price at which such security is proposed to be sold; the commission to be paid for the sale of same, including any and all compensation of every nature that is in any way to be allowed for the sale of same; and how such compensation is to be paid; whether in cash, stock, service or otherwise, or partly of either or both; also, the amount of cash to be paid, or stock to be issued for promotion and/or organization services and expenses, and the amount of promotion and/or organization services and expenses which will be assumed or in any way paid by the issuer;

(e) Copies of certificates of the stock and all other securities to be sold, or offered for sale, together with application blanks therefor; a copy of any contract it proposes to make concerning such security; a copy of any prospectus or advertisement or other description of security prepared by or for it for distribution or publication;

(f) A detailed statement showing all the assets and all the liabilities of the issuer, said statement to reflect the financial condition of the issuer on a day not more than ninety (90) days prior to the date such statement is filed. Such statement shall list all assets in detail and shall show how the value of such assets was determined, that is, whether the value set forth in said statement represents the actual cost in money of such assets, or whether such value represents their present market value, or some other value than the actual cost in money, and shall show the

present actual value of said assets; also, whether the value set forth in the statement is greater or less than the actual cost value in money and greater or less than the present market value of such assets. If any of the assets consist of real estate, then said statement shall show the amount for which said real estate is rendered for state and county taxes, or assessed for taxes. If any such assets listed shall consist of anything other than cash and real estate, same shall be set out in detail so as to give the Secretary of State the fullest possible information concerning same, and the Secretary of State shall have the power to require the filing of such additional information as he may deem necessary to determine whether or not the true value of said assets are reflected in the statement filed. Should any of the assets listed in said statement be subject to any repurchase agreement, or any other agreement of like character, by the terms of which the absolute ownership of, or title to said assets is qualified or limited in any way, then the terms and conditions of said agreement by which the absolute ownership of, or title to said assets is qualified or limited, as well as the amount and character of the assets subject thereto shall be fully stated. Said statement shall list all current liabilities, that is, all liabilities which will mature and become due within six (6) months from the date of such application, and shall list separately from such current liabilities, all other liabilities, contingent or otherwise, showing the amount of those which are secured by mortgage or otherwise, the assets of the issuer which are subject to such mortgage, and the dates of maturity of any such mortgage indebtedness. Such application shall also include a detailed profit and loss statement, which shall cover the last three (3) years operations of the issuer, if such issuer has been in operation for three (3) years, but if not, said profit and loss statement shall cover the time that said issuer has been operating. If said issuer has not been operating, but is taking over a concern of any kind which has been previously operating, then a financial and profit and loss statement showing the operations of the concern thus taken over for a period of the last three (3) years next preceding the taking over of said concern shall be included in said statement; said profit and loss statement shall clearly reflect the amount of net profit or net loss incurred during each of the years shown. As amended Acts 1951, 52nd Leg., p. 624, ch. 370, § 2.

Effective 90 days after June 8, 1951, date of adjournment.

Lists of securities filed with Secretary of State on request; notice and hearing as to questioned securities

Sec. 24. The Secretary of State may, in the exercise of reasonable discretion hereunder, at any time, require a dealer to file with the Secretary of State a list of securities which he has offered for sale or has advertised for sale within this State during the preceding six (6) months, or which he is at the time offering for sale or advertising, or any portion thereof. No dealer, agent or salesman shall knowingly sell or offer for sale any security or securities named or listed in a notice in writing given him by the Secretary of State that, in the opinion of the Secretary of State, the further sale or offer of sale of the security or securities named or listed in such notice would not be in compliance with this Act or would tend to work a fraud on any purchaser thereof or that the plan of business of the issuer of such security or securities is not fair, just and equitable; and no dealer, agent or salesman shall publish within this State any circular, advertisement, prospectus, program, or other matter in the nature thereof, after notice in writing has been given him by the Secretary of State that, in the Secretary of State's opinion, the same contains any statement that is false or misleading or otherwise

likely to deceive a reader thereof. The dealer, agent or salesman to whom any such notice is given shall be entitled to a hearing and an appeal as provided for in this Act. The fact that the Secretary of State may give such notice in writing with reference to any specified security or securities shall not affect, limit or impair the right of any dealer, agent or Salesman to whom any such notice is given to continue to issue, offer for sale and sell other securities in accordance with the provisions of this Act. Upon receipt of any such notice in writing the dealer, agent or salesman to whom such notice is given shall have the right to demand an immediate hearing with reference thereto, and the Secretary of State shall, upon request, set a time within thirty (30) days from receipt of such request and fix the place for such hearing and give notice thereof not less than seven (7) days in advance to the dealer, agent or salesman making the request for the hearing. Should the final decision of the Secretary of State, as a result of such hearing and given at the conclusion thereof, reverse the former opinion of the Secretary of State, forming the basis for such notice in writing, then the dealer, agent or salesman may proceed to offer for sale, sell and deal in the security or securities involved and to use the advertisement, prospectus, circular, program or other matter in the same manner as if such notice had not been given. Should the final decision of the Secretary of State, as a result of such hearing and given at the conclusion thereof, confirm the former opinion of the Secretary of State, forming the basis for such notice in writing, then the dealer, agent or salesman may proceed to effect an appeal to the courts in the manner provided generally in this Act for similar appeals. As amended Acts 1951, 52nd Leg., p. 624, ch. 370, § 3.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER THREE—PURCHASING DIVISION

Art.
634(C). Purchase of privately owned
busses in operation in transpor-
tation of school children [New].

Art. 634(C). Purchase of privately owned busses in operation in transportation of school children

Section 1. The State Board of Control is hereby authorized to allow the board of trustees of any school district in this State to purchase privately owned or contracted school buses now in operation in the transportation of school children when the Board of Control deems such purchase is to the best interest of the school district. Such buses shall be purchased at the purchase price as may be determined by the State Board of Control.

Sec. 2. Nothing in this Act shall be construed to prohibit private owners of such buses from selling such buses on the open market if they can secure more favorable terms of purchase.

Sec. 3. This Act shall be cumulative of Article 634(B) of Chapter 3, Title 20, Revised Civil Statutes of Texas, 1925. Acts 1951, 52nd Leg., p. 216, ch. 128.

Emergency. Effective May 2, 1951.

CHAPTER FOUR—PUBLIC BUILDINGS AND GROUNDS DIVISION

Art. 678. State Cemetery

The State Board of Control shall control, superintend and beautify the grounds of the State Cemetery and shall preserve the grounds and everything pertaining thereto and protect the property from depreciation and injury. The Board shall procure and erect, at the head of each grave which has no permanent monument, an obelisk of marble upon which shall be engraved the name of the dead therein buried. The Board may establish rules and regulations for determining eligibility for interment therein and shall enter such rules and regulations upon its minutes and may amend the same from time to time; providing, however, that the Governor by proclamation or the Legislature by concurrent resolution may otherwise determine eligibility for interment. As amended Acts 1951, 52nd Leg., p. 592, ch. 347, § 1.

Emergency. Effective June 2, 1951.

CHAPTER SIX—DIVISION OF ESTIMATES AND APPROPRIATIONS

IN GENERAL

Art.
688a. Division of Estimates and Appropriations abolished; transfer of powers and duties [New].

BUDGETS

Art.
689a—4a. Cooperation by Governor and Legislative Budget Board; joint hearings [New].

IN GENERAL

Article 688. Estimates submitted

The head of each department, school, institution, and of the prison system, and the head of any of the divisions or departments of government for which appropriations are made by the Legislature, shall submit to the Governor, not later than August 15th of each year preceding the regular biennial session of the Legislature, an itemized account of all items of expenses for the preceding two years, and an estimate of the appropriations required by such department, school or institution or by the prison system for the regular biennial appropriation made by the Legislature, which estimate shall be submitted and itemized in such manner as the Governor shall require. As amended Acts 1951, 52nd Leg., p. 572, ch. 332, § 3.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 688a. Division of Estimates and Appropriations abolished; transfer of powers and duties

Section 1. Pursuant to that portion of Chapter 206, Acts of the 42nd Legislature, 1931, page 339¹, which constitutes the Governor the Chief budget officer of the State, all powers, duties, privileges, prerogatives, rights and functions now held, exercised or performed by the State Board of Control or by its constituent Division of Estimates and Appropriations with respect to the compilation of biennial appropriation budgets are hereby transferred to and vested in the Governor and shall hereafter be exercised or performed by him; and the Division of Estimates and Appropriations of the State Board of Control is hereby abolished.

Sec. 2. All sums appropriated to the Division of Estimates and Appropriations of the State Board of Control are hereby transferred and

appropriated to the Executive Department to be expended by the Governor in the compilation of biennial appropriation budgets as provided by law; and, within the limits of said appropriation and of future appropriations, the Governor is hereby authorized to employ such persons and to make such expenditures as are required for the compilation of the biennial appropriation budgets. All equipment and supplies now assigned to the Division of Estimates and Appropriations of the Board of Control are hereby transferred to the Executive Department. Acts 1951, 52nd Leg., p. 572, ch. 332.

¹ Article 688 et seq.

Art. 689. Inspection of properties, equipment and facilities

The Governor shall cause to be inspected the properties, equipment and facilities of the various agencies of the government for which appropriations are to be made, either before or after such estimates are submitted, and shall give consideration to such inspections in his compilation of the biennial appropriation budget. As amended Acts 1951, 52nd Leg., p. 572, ch. 332, § 4.

BUDGETS

Art. 689a—2. Uniform budget estimate blanks

The Governor is hereby authorized to collaborate with the Legislative Budget Board in designing and preparing uniform budget estimate blanks upon which all requests for appropriations from the Legislature shall be prepared; and the Governor shall require that all requests for appropriations be submitted to him on such blanks or forms. As amended Acts 1951, 52nd Leg., p. 572, ch. 332, § 5.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 689a—4. Hearings by Governor in preparation of budget

Upon receipt of the estimates for appropriations, the Governor shall afford to the heads of departments, institutions or other agencies that are seeking appropriations an opportunity to appear and be heard at a public hearing wherein such estimates are to be considered; and, if so desired, the Governor shall have the right to require the heads of such departments, institutions or other agencies, or any employees thereof, to appear at such public hearing and to give further information concerning requested appropriations. Any taxpayer shall have the right to be present at any and all such public hearings and to participate in the discussion of any item proposed to be included in the budget under consideration. The Governor shall preside at and conduct all such hearings, or, if unable for any reason to conduct such hearings, the Governor may authorize any employee of the Executive Department to preside at such hearings and represent him. As amended Acts 1951, 52nd Leg., p. 572, ch. 332, § 6.

Art. 689a—4a. Cooperation by Governor and Legislative Budget Board; joint hearings

With respect to matters pertaining to the compilation of the biennial appropriation budget, the Governor and the Legislative Budget Board created by Chapter 487, Acts of the 51st Legislature, 1949, page 908, may cooperate and exchange information, and may, if they so desire, jointly hold public hearings pertaining to the biennial appropriation budgets. At any such joint public hearings, the Governor shall preside, or,

if for any reason he be unable to conduct such hearings, the Lieutenant-Governor or such person as the Governor and the Lieutenant-Governor shall appoint, shall preside. Acts 1951, 52nd Leg., p. 572, ch. 322, § 7.

Art. 689a—5. Compilation of budget by Governor

Based on information submitted to the Governor in the estimates and obtained by him at public hearings, from inspections and from other sources, the Governor shall compile the biennial appropriation budgets. On such budgets, the list of appropriations shall be shown for the three (3) years preceding the years for which appropriations are sought and recommended for the ensuing biennium, and the expenditures shall be shown for the first two (2) of the last above mentioned years. The budget shall also show the amounts requested by the various agencies and the amounts recommended by the Governor for each of the years of the ensuing biennium. As amended Acts 1951, 52nd Leg., p. 572, ch. 322, § 8.

Art. 689a—6. Transmission of copies of budget; committee hearings; copies of budget for distribution

On or before December 15th of the year immediately preceding the regular biennial session of the Legislature, the Governor shall mail to each person who will be a member of the next Legislature, to the Legislative Budget Board, and to each head of each department, institution or other agency included in the budget, a copy of the budget as prepared. Within five (5) days after the beginning of each regular session of the Legislature, the Governor shall transmit to all members of the Legislature printed copies of the budget, and the Appropriations Committee in the House and the Finance Committee in the Senate may, if they so desire, begin preliminary committee hearings on the budget without waiting for the submission of the budget bills. The Governor shall also cause to be printed such extra copies of the budget as in his judgment are necessary for public distribution. As amended Acts 1951, 52nd Leg., p. 572, ch. 322, § 9.

CHAPTER SEVEN—DIVISION OF ELEEMOSYNARY INSTITUTIONS

Art. 691. Employment of superintendents; qualifications, status and removal

The Board for Texas State Hospitals and Special Schools is authorized to employ a superintendent for each institution under its control and management. Each superintendent shall have had special advantages and practical experience in the management of the class of persons committed to his charge, and in each particular instance shall have all other qualifications prescribed by law. The superintendent of each institution under the control and management of the Board for Texas State Hospitals and Special Schools is an employee of the Board, and not an officer of the State, and said Board is hereby vested with full authority and discretion to terminate the employment of any such superintendent at any time. Any provisions of this Act which conflict with or which are inconsistent with the provisions of any other law, general or special, shall take precedence over any such conflicting or inconsistent provisions. As amended Acts 1951, 52nd Leg., p. 286, ch. 691, § 1.

Emergency. Effective May 11, 1951.

Art. 692. Bond of superintendent

The Board for Texas State Hospitals and Special Schools is authorized to require the superintendent of each institution under its control and management to enter into bond, within twenty (20) days after receiving notice of his employment, in the sum of Ten Thousand Dollars (\$10,000), payable to the State of Texas to be approved by the Governor, and conditioned for the faithful performance of all the duties of said employment. Such bond shall be filed in the office of the Comptroller, and shall not become void on first recovery thereon, but may be sued upon until the full penalty is recovered. As amended Acts 1951, 52nd Leg., p. 450, ch. 277, § 1.

Emergency. Effective May 19, 1951.

TITLE 20A—BOARD AND DEPARTMENT OF PUBLIC WELFARE

Art.

695g. Federal old age and survivors insurance coverage for county and municipal employees [New].

Art. 695c. Public Welfare Act; Definitions

Duties and functions of State Department

Sec. 4.

(7) Establish and provide such method of local administration as is deemed advisable, and provide such personnel as may be found necessary for carrying out in an economical way the administration of this Act; provided, however, that all employees of the Department, except clerical and stenographic employees, shall have been residents of the State of Texas for a period of at least four (4) years next preceding their appointment. To serve in an advisory capacity to such local administrative units as may be established, there may be also established local advisory boards of public welfare, which boards shall be of such size, membership, and experience as may be determined by the Executive Director of the Department of Public Welfare to be essential for the accomplishment of the purposes of this Act not in conflict with or duplication of other laws on this subject. As amended Acts 1951, 52nd Leg., p. 586, ch. 342, § 1.

Emergency. Effective June 2, 1951.

Blind persons; application for assistance

Sec. 15. No application for assistance as a needy blind person shall be approved until the applicant shall have been examined by an ophthalmologist or physician skilled in treatment of diseases of the eye who is licensed to practice medicine in Texas and who has been approved by the State Department to make such examination, or an optometrist who is legally licensed to practice optometry in the State of Texas and who has been approved by the State Department to make such examination. The examining ophthalmologist or physician or optometrist shall certify in writing, upon forms prescribed by the State Department, such information as the Department may require for proper diagnosis, prognosis, and recommendations as to medical and surgical treatment. The State Department shall adopt a reasonable fee schedule for such examinations, such fees not to exceed those customarily charged by the examiner for similar examinations for his private patients. Such fees shall be paid out of the funds appropriated to the State Department for the purpose of assistance to needy blind persons under the provisions of this Act or for administrative expense. As amended Acts 1951, 52nd Leg., p. 31, ch. 24, § 1.

Emergency. Effective March 17, 1951.

Section 2, 1951, chs. 24 and 342, each repealed all conflicting laws or parts of laws to the extent of such conflict only.

Section 3 of Acts 1951 read as follows: "If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act or application thereof to any person or circumstance is held invalid, such hold-

ing 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."

Coin operated machines, three-fourths of net revenue derived from tax to be credited to Texas Old Age Assistance Fund, see arts. 7047a—15, 7047a—18.

Art. 695g. Federal old age and survivors insurance coverage for county and municipal employees

Definitions

Section 1. The following definitions of words and terms shall apply as used in this Act:

(a) The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act,¹ would not constitute "wages" within the meaning of that Act.

(b) The term "employment" means any service performed by an employee in the employ of a county or municipality of the State other than services performed in connection with a proprietary function of said county or municipality, except (1) service which in the absence of an agreement entered into under this Act would constitute "employment" as defined in the Social Security Act; or (2) service which under the Social Security Act² may not be included in an agreement between the State and the Federal Security Administrator entered into under this Act.

(c) The term "employee" includes an officer of a county or municipality of the State.

(d) The term "State Agency" means the State Department of Public Welfare.

(e) The term "Federal Security Administrator" includes any individual to whom the Federal Security Administrator has delegated any of his functions under the Social Security Act with respect to coverage under such Act of employees of States and their political subdivisions.

(f) The term "municipality" means incorporated cities, towns, and villages.

(g) The term "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such Act has been and may from time to time be amended.

¹ 26 U.S.C.A. § 1400 et seq.

² 42 U.S.C.A. § 301 et seq.

Administration of act

Sec. 2. The State Department of Public Welfare is designated the State Agency to administer the provisions of this Act. The Executive Director of the department shall act for it and shall direct and administer its functions under this Act.

Agreements with Federal Security Administrator

Sec. 3. The State Agency is authorized to enter into agreements with the Federal Security Administrator to obtain Federal old-age and survivors insurance coverage for employees of any of the counties or municipalities of the State other than employees engaged in performing services in connection with a proprietary function. These agreements may contain such provisions relating to coverage, benefits, contributions, effective date, modification, and termination of the agreement, administration, and any other appropriate matters consistent with the Constitution and laws of Texas as the State Agency and Federal Security Administrator shall agree.

Agreements with county and municipal governing bodies

Sec. 4. The State Agency is authorized to enter into agreements with the governing bodies of counties and with the governing bodies of municipalities of the State which are eligible for Social Security coverage under Federal law when the governing body of any of said counties or municipalities desires to obtain coverage under the old-age and survivor's insurance program for their employees, these agreements to embrace such provisions relating to coverage benefits, contributions, effective date, modification and termination of the agreement, administration, and any other appropriate matters consistent with the Constitution and laws of Texas as the State Agency and the governing body of the county or municipality shall agree.

Rules and regulations; terms of agreements

Sec. 5. The State Board of Public Welfare is authorized and directed to promulgate all reasonable rules and regulations it deems necessary to govern applications for and eligibility to participate in this program, and it shall prescribe the terms of the agreements necessary to carry out the provisions of this Act and to insure financial responsibility on the part of participating counties and municipalities.

Authority of governing bodies

Sec. 6. The respective governing bodies of the various counties and municipalities of Texas which are now or shall hereafter become eligible under applicable Federal requirements are hereby authorized to enter into all necessary agreements with the State Agency to enable the employees of the respective counties and municipalities to have coverage under the Social Security Act. The respective governing bodies are authorized to pay contributions as required by these agreements from those funds from which the covered employees receive their compensation, and it is expressly provided that all prior laws and parts of laws which fix a maximum compensation for any covered employees of counties are hereby amended to allow payment of the matching contribution necessary to this program in addition to any maximum compensations otherwise fixed by law.

Submission and approval of plans

Sec. 7. Each county and municipality of the State is authorized to submit for approval by the State Agency a plan for extending the benefits of the Federal old-age and survivors insurance system to employees of the county or municipality other than those engaged in performing services in connection with a proprietary function of the subdivision. The State Agency shall not finally refuse to approve a submitted plan and shall not terminate an approved plan without reasonable notice and opportunity for hearing to the affected county or municipality. Each plan shall be approved by the State Agency if it finds it is in conformity with requirements provided in the regulations of the State Agency, except that no plan shall be approved unless: (a) it is in conformity with requirements of the applicable Federal law and with the Federal-State agreements; (b) it specifies the source or sources from which the funds necessary to make the payments required are to be derived and contains guarantees that these sources will be adequate for this purpose (the State Agency may by appropriate rules and regulations require guarantees in the form of surety bonds, advance payments into escrow, detailed representations and assurances of priority dedication, or any legal undertakings to create adequate security that each county and municipality will be financially responsible for its share in this program for at least a minimum period equivalent to that specified by Federal re-

quirements to precede coverage cancellation); (c) it provides such methods for administration of the plan by the county or municipality as are found by the State Agency to be necessary for proper and efficient administration; (d) it provides the county or municipality will make reports in such form and containing such information as the State Agency may from time to time require and will comply with such provisions as the State Agency or appropriate Federal authorities may from time to time find necessary to assure the receipt, correctness, and verification of these reports; and, (e) it authorizes the State Agency to terminate the plan in its entirety if it finds there has been a failure to comply with any provision contained in the plan, this termination to take effect at the expiration of such notice and upon such conditions as may be provided by regulations of the State Agency consistent with applicable Federal law.

Contributions

Sec. 8. Each county or municipality as to which a plan has been approved may and shall pay to the State Agency, with respect to employees' wages, at such time as the State Agency may by regulations prescribe, contributions in the amounts and at the rates specified by the applicable agreement entered into pursuant to the Federal-State agreement. Counties or municipalities required to make such payments are authorized, in consideration of the employees' retention in or entry upon employment, to impose upon its employees as to services which are covered by an approved plan, a contribution with respect to wages in keeping with applicable State and Federal requirements. Contributions so collected shall be paid to the State Agency in partial discharge of the liability of the county or municipality, but failure to deduct contributions from employees' wages shall not relieve the employee or the employer of liability for the contribution. If more or less than the correct amount of any contribution is paid or deducted, adjustments or refunds shall be made in the manner and at the time prescribed by the State Agency. Matching contributions by the employing counties or municipalities as prescribed by the approved plan in keeping with Federal requirements shall be paid from the respective sources of funds from which covered employees receive their compensation.

Assessment and collection of contributions

Sec. 9. When the governing body of a county or municipality elects to enter into an agreement with the State Agency, it shall become the duty of the County Treasurer in the respective counties and of the person or persons who hold comparable positions in the municipalities to assess and collect the required contributions of the various employees in the respective counties or municipalities and transmit the same to the State Agency. Each plan approved by the State Agency will specify the responsible personnel of the undertaking county or municipality who will be charged with the duty to make assessments, collections, and reports.

Administrative expenses

Sec. 10. The respective governing bodies of the various counties or municipalities of this State which enter into agreements under this program are hereby authorized to pay to the State Agency, out of any available funds not otherwise dedicated, such amounts, separate and apart from employees' contributions and matching contributions, as may be agreed between the respective governing body and the State Agency to be necessary to finance the county's or municipality's proportionate share in the administrative cost of this program at the State level. The State Agency shall require specific undertakings to defray a proportionate share

of the administrative expenses at the State level in agreements negotiated with counties and municipalities on any basis mutually agreeable between the State Agency and the participating county or municipality, whether as an annual fee for each participating county or municipality, an annual fee per employee covered, a percentage based upon the contributions to the Federal authorities, or any other equitable measure. Annually at the close of each fiscal year, the State Agency shall pay from the Social Security Administration Fund to the State Treasurer for deposit to the General Revenue Fund of the State of Texas an amount not less than ten per cent (10%) of these contributions during the preceding year to defray administrative expenses until such time as the amount appropriated to the State Agency from funds of the State for administrative purposes has been reimbursed in full, at which time such payments shall cease.

Delinquent payments

Sec. 11. The State Agency may require in agreements with counties and municipalities an undertaking to pay legal interest on delinquent payments. The State Agency is empowered to sue to collect any delinquencies and interest thereon in courts of competent jurisdiction. The State Agency may direct the deduction of any delinquent payments with interest from any moneys payable to the delinquent county or municipality by the State or any department or agency of the State, provided, however, that deductions shall be made only from such prior appropriations as were expressly made subject to such deductions. The Comptroller and the State Treasurer are empowered and directed to comply with the State Agency's deduction directives and to remit the deducted amounts to the State Agency in trust for the contributions of the delinquent county or municipality.

Social Security Fund; social security Administration Fund

Sec. 12. There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, to be known as the Social Security Fund, which shall be administered as directed by the State Agency exclusively for the purposes of this Act. The State Treasurer shall be treasurer and custodian of the fund. He shall administer such fund in accordance with the directions of the State Agency, and the Comptroller shall issue warrants upon it in accordance with such regulations as the State Agency shall prescribe. The State Agency shall deposit all moneys collected under the provisions of this Act, except moneys to defray administrative expenses at the State level, in the Social Security Fund. All moneys so deposited with the State Treasurer in the Social Security Fund shall be held in trust, separate and apart from all public moneys or funds of this State. The State Agency is vested with full power, authority, and jurisdiction over the fund and may perform any and all acts necessary to the administration thereof and to pay the amounts required to be paid to the appropriate Federal authorities and any refunds or adjustments necessary under this Act.

The State Agency shall deposit all moneys collected under the provisions of this Act from participating counties and municipalities to defray the cost of administering this program at the State level in a special fund to be known as the Social Security Administration Fund. The State Treasurer shall be treasurer and custodian of the fund, which shall be held separate and apart from all public moneys or funds of this State. The State Treasurer shall administer this fund in accordance with the directions of the State Agency. Moneys deposited in either of these special funds shall be disbursed upon warrants issued by the

Comptroller of Public Accounts pursuant to sworn vouchers executed by the State Agency acting through the executive director of personnel of the agency to whom he expressly delegates this function. These funds will not be State funds and will not be subject to legislative appropriation.

Expenditures; personnel

Sec. 13. The State Agency is authorized to expend moneys in the Social Security Administration Fund for any purpose necessary to carry on the administration of this program at the State level, including but not limited to salaries, traveling expenses, printing, stationery, supplies, equipment, bond premiums, postage, communications, and contingencies, and the State Agency is authorized to employ such personnel, purchase such equipment, incur such expenses as may be necessary to carry out the administration of this program at the State level, provided all salaries and expenditures from this fund shall be consistent with the letter and spirit of comparable items and general provisions in the general departmental appropriation bill then current. Acts 1951, 52nd Leg., p. 1480, ch. 500.

Effective 90 days after June 8, 1951, date of adjournment.

Section 14 of the Act of 1951 made an appropriation. Section 15 read as follows: "If any portion of this Act is held uncon-

stitutional by a court of competent jurisdiction the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part hereof."

TITLE 21—BOND INVESTMENT COMPANIES

Article 696. 1309 Deposit

Lending companies, this article not applicable, see art. 1524A—1.

TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.

CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

<p>Art. 717g. Revocation or cancellation of authority to issue bonds [New].</p>	<p>Art. 717h. Bonds for repair or improvement of toll bridge across Rio Grande [New].</p>
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Art. 717. 608 Exceptions

The first three Articles of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, shall not apply to refunding bonds issued, or to be issued, for the refunding of any valid outstanding bonds of a county, city, or town; nor to any bond issue for a sum less than Two Thousand (\$2,000.00) Dollars, when issued for the purpose of repairing buildings or structures for the building of which bonds are allowed to be issued; provided, however, that the aggregate principal amount of bond issues for the repairing of such buildings and structures shall never in any one calendar year exceed Two Thousand (\$2,000.00) Dollars. As amended Acts 1951, 52nd Leg., p. 67, ch. 40, § 1.

Emergency. Effective April 12, 1951.

Art. 717g. Revocation or cancellation of authority to issue bonds

Section 1. The Commissioners Court of any county and the governing body of any incorporated city or town, including Home Rule Cities, are hereby empowered and authorized to order an election or elections for the purpose of determining whether the authority to issue bonds theretofore voted but which have not at the time of ordering such election been sold and delivered shall be revoked or canceled. The authority granted by this Act shall apply to unsold and undelivered bonds whether the same constitute all or only a portion of an issue. Such election shall be ordered, held, and conducted in the same form and manner and under the same procedure as that at which such bonds were originally authorized. All voters desiring to support the proposition shall have written or printed upon their ballots the words:

“FOR the revocation of bonds”; and those opposed, the words: “AGAINST the revocation of bonds.”

If the revocation election covers bonds of more than one voted issue, there shall be a separate proposition pertaining to the bonds of each voted issue.

Sec. 2. The Commissioners Court or the governing body of the city or town shall pass an order or resolution canvassing the returns, and if the election carries by the vote required under the statutes under which the bonds were originally voted, the authority to issue such bonds shall thereupon be revoked and canceled. If the bonds have been printed the Commissioners Court or governing body shall destroy the bonds by canceling and burning the same. If said bonds have been approved by the Attorney General and registered by the Comptroller, a certified copy of the order or resolution and the minutes pertaining thereto shall be forwarded to said Attorney General and Comptroller. If the bonds have not been printed, a certified copy of the order or resolution showing that the authority to issue such bonds has been revoked and canceled and the minutes pertaining thereto shall be forwarded to the Attorney General. Acts 1951, 52nd Leg., p. 174, ch. 110.

Emergency. Effective May 2, 1951.

Art. 717h. Bonds for repair or improvement of toll bridge across Rio Grande

Section 1. This Act shall be applicable to all incorporated cities and towns, including Home Rule Cities, which own the portion of an international toll bridge over the Rio Grande River which is situated within the United States of America. Any such city or town may from time to time issue bonds payable from the net revenues derived from the operation of such bridge for the purpose of repairing or improving the bridge, acquiring approaches thereto, and constructing buildings to be used in connection therewith, or for any of such purposes. Such bonds shall be issued in conformity with and subject to the provisions of Chapter 1 of Title 22, Revised Civil Statutes of Texas, as amended.

Sec. 2. Where there are outstanding bonds payable from the net revenues derived from the operation of such bridge, additional revenue bonds are permitted or authorized by the provisions of the outstanding bonds and the proceedings relating to such outstanding bonds. The additional bonds shall be issued to the extent and under the conditions provided by the provisions of the outstanding bonds and the proceedings relative thereto, including any trust indenture securing the outstanding bonds, and such additional bonds may be secured by a pledge of and lien on the net revenues junior to the pledge and lien securing the outstanding bonds, or by a pledge of and lien on the net revenues on a parity with such outstanding bonds, depending upon the provisions of said outstanding bonds and the proceedings relative thereto.

Sec. 3. 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, it shall not affect any other word, phrase, clause, sentence, paragraph, section, or part of this Act. Acts 1951, 52nd Leg., p. 805, ch. 449.

Emergency. Effective June 15, 1951.

CHAPTER SEVEN—MUNICIPAL BONDS

Art.

835l. Harbor, wharf and dock facilities; cities and towns of 5,000 or less on Gulf or connecting waters [New].

Art. 823. May issue bonds

Bonds for parks and recreational facilities validated, see art. 6081i.

Art. 835l. Harbor, wharf and dock facilities; cities and towns of 5,000 or less on Gulf or connecting waters

Section 1. Any city or town in this State, having five thousand (5,000) or less inhabitants, located on the coast of the Gulf of Mexico, or on any channel, canal, bay, or inlet connected with the Gulf of Mexico, organized and operating under the general law, shall have the authority to purchase, construct, own, maintain, improve, repair, operate, or lease any wharf, pier, pavilion, dock, harbor or boat basin, and such other facilities as may be deemed advisable in connection therewith, including ferries.

Sec. 2. Any such city or town may issue its negotiable bonds for the purposes above enumerated and may provide for the payment of the principal of and interest on such bonds from the income of such facilities after deducting the reasonable cost of the operation and maintenance thereof, or such city or town may issue its negotiable bonds for such pur-

poses in the manner now provided for the issuance of other municipal bonds payable from an ad valorem tax levied on all the taxable property within such city or town.

Sec. 3. In the event bonds are issued payable from the income of such facilities, the governing body of such city or town shall have the authority to issue such bonds without the giving of any notice or submitting the question to a vote of the qualified property taxpaying voters, and may prescribe the terms and provisions of such bonds in any manner such governing body may deem advisable. If any such bonds are issued payable from an ad valorem tax on the property in such city or town, the question of the issuance of such bonds shall first be submitted to a vote of the qualified electors of such city or town who own taxable property therein and who have duly rendered the same for taxation, and such bonds shall not be issued unless authorized by a majority vote of the voters voting at such election.

Sec. 4. Before any such bonds shall be issued and sold, they shall first be submitted to the Attorney General for his approval and if approved by him, to the Comptroller of Public Accounts of the State of Texas, to be registered by him in the manner provided for other municipal bonds. The approval of the Attorney General of such bonds and registration thereof by the Comptroller of Public Accounts shall have the same effect as in the case of other municipal bonds. Acts 1951, 52nd Leg., p. 339, ch. 210.

Emergency. Effective May 17, 1951.

CHAPTER 9.—STATE BONDS

Art.

842g. Suits on bonds issued in 1861 [New].

Arts. 842b-842f. Repealed. Acts 1951, 52nd Leg., p. 362, ch. 228, § 1.

Eff. 90 days after June 8, 1951, date of adjournment

The preamble to the repealing act recited that the repealed statutes had no function to perform, that the bonds had been retired, the interest fully paid, except a small amount which was unclaimed, and that all funds had been spent as directed.

Section 2 of the Act provided for the transfer of the unclaimed interest to the State Treasurer, and for its payment to coupon holders on demand by Treasury warrant.

Art. 842g. Suits on bonds issued in 1861

Section 1. The consent of the Legislature of the State of Texas is hereby given to all lawful holders of bonds issued under the Act of April 8, 1861, their executors, administrators and heirs to file and prosecute suit against the State of Texas, Comptroller of Public Accounts and the State Treasurer for moneys alleged to be due in unpaid principal and interest on said bonds prorated to the extent only of the amount heretofore reimbursed to the State of Texas by the United States government for the principal and interest on said bonds.

Sec. 2. Said suit shall be brought in Travis County at any time within two (2) years from the date of this Act.

Sec. 3. The State and said Comptroller and Treasurer may appeal from any judgment had thereby as provided by law without executing any bond and upon final judgment against said defendants, same shall be paid out of the General Funds of the State Treasury not otherwise appropriated.

Sec. 4. Service in the said cause shall be had by citing the Governor, Comptroller, Treasurer and Attorney General.

Sec. 5. The invalidity of any section, term or provision hereof shall not render invalid the remaining sections, terms and provisions hereof which would otherwise be valid.

Sec. 6. Nothing herein shall be construed as tolling the Statute of Limitations on such cause, or as reviving such cause if same is now barred by the Statute of Limitations.

Sec. 7. Nothing herein shall be construed as an admission of liability on the part of the State of Texas in such cause. Acts 1951, 52nd Leg., p. 677, ch. 392.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act giving to lawful holders of bonds issued under the Act of April 8, 1861, which bonds are sometimes called Texian Loan of One Million Dollars (\$1,000,000), consent of the Legislature to sue the State of Texas, the Comptroller of Public Accounts, and the State Treasurer for moneys

due on said bonds and principal and interest thereon; providing for the bringing of suit and appeal; providing for service of citation; providing a saving clause; providing nothing shall be construed as tolling the Statute of Limitations on such cause, and nothing shall be construed as admission of liability on the part of the State; and declaring an emergency. Acts 1951, 52nd Leg., p. 677, ch. 392.

TITLE 24—BUILDING AND LOAN ASSOCIATIONS

Art. 881a—8. Monthly and annual reports

The executive officer of each building and loan association organized under the laws of this State, or doing business in this State under a permit shall, on or before the 25th day of each month, file with the Banking Commissioner of Texas a copy of the monthly report, now required of insured associations to be filed with the Home Loan Bank at Little Rock, or to file with the Banking Commissioner of Texas, a monthly report, on forms prescribed by the Banking Commissioner of Texas, showing the transactions of the association for the preceding calendar month.

Every such building and loan association shall on or before March 1st of each year file with the Banking Commissioner of Texas a full and detailed statement of its financial condition on the 31st day of the preceding December. Said statement shall set forth the amount and character of its assets, liabilities, income and expenses and shall contain such other information, and be in such form as may be prescribed by the Banking Commissioner of Texas. Said report shall be sworn to by the president and secretary or treasurer of such association and a copy thereof shall be filed with its Board of Directors; and such report shall show the number and amount of loans outstanding upon its books in each different town or city in which the property securing such loan is situated.

Any such association refusing or neglecting to file the reports herein required within the time specified shall forfeit Five Dollars (\$5) per day for each and every day such reports shall be withheld, and the Banking Commissioner of Texas may maintain an action in the name of the State to recover such penalty, which upon its collection shall be paid into the State Treasury. Within thirty (30) days after such refusal to file such reports, the Banking Commissioner shall cause to be investigated the affairs of the association, at the expense of such association, and if found in a failing condition, take charge of its affairs, as provided in Section 13 of this Act.¹ As amended Acts 1951, 52nd Leg., p. 204, ch. 119, § 1.

¹ Article 881a—13.

Effective 90 days after June 8, 1951, date of adjournment.

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 Banking Department of the State 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	\$100.00
\$ 250,001.00	to	500,000.00	pay	150.00
500,001.00	to	750,000.00	pay	200.00
750,001.00	to	1,000,000.00	pay	250.00
1,000,001.00	to	1,250,000.00	pay	300.00
1,250,001.00	to	1,500,000.00	pay	350.00
1,500,001.00	to	1,750,000.00	pay	375.00
1,750,001.00	to	2,000,000.00	pay	425.00
2,000,001.00	to	2,500,000.00	pay	550.00
2,500,001.00	to	3,000,000.00	pay	650.00

For associations with assets from Three Million Dollars (\$3,000,000) to Six Million Dollars (\$6,000,000) in size, add One Hundred Dollars

(\$100) for each Million or major fraction thereof in excess of Three Million Dollars (\$3,000,000); for associations with assets over Six Million Dollars (\$6,000,000), add Fifty Dollars (\$50) for each Million or major fraction thereof in excess of Six Million Dollars (\$6,000,000). Such fees, together with all other fees, collected by the Banking Department, shall be retained by said Department and shall be expended only for the expenses of such Department. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 3.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 881a—12. Accounting system, appraisal record and photographing of records

Every association shall keep its books and records in such form as to accurately show its assets and liabilities, income and disbursements, in detail, and showing the appraised values in ink of the real estate security held in connection with each loan and signed in each case by the appraiser, officer or committee charged with making such estimated valuations.

Any association may cause any or all of its records to be recorded, copied or reproduced by any photographic, photostatic or miniature photographic process which correctly, accurately and permanently copies, reproduces or forms a medium for copying, or reproducing the original record on a file or durable material, to be kept permanently by such association, and such association may thereafter dispose of the original record.

Any such photographic, photostatic or miniature photographic copy or reproduction shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of any such photographic copy or reproduction by the proper officer of such association, shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record. As amended Acts 1951, 52nd Leg., p. 204, ch. 119, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 26—CEMETERIES

Art. 912a—2. Operation of cemeteries unlawful unless provisions complied with

The operation of any perpetual care cemetery within this State shall hereafter be unlawful unless such cemetery shall comply with all applicable provisions of this Act.¹ The operation of any cemetery as a perpetual care, permanent maintenance, or free care cemetery shall hereafter be unlawful unless such cemetery shall have created and shall maintain a perpetual care fund in accordance with the provisions of this Act.

Each perpetual care cemetery as defined in this Act shall file in its office, and as well in the office of the Banking Commission of Texas, a statement in duplicate which shall contain the following information:

(1) Amount of principal of the perpetual care funds.

(2) Total amount invested in bonds and other securities, the total amount of cash on hand not invested, and such other items which shall actually show the financial condition of the trust.

(3) Number of square feet of grave space, and number of crypts, and number of niches disposed of under perpetual care, prior to and subsequent to March 15, 1934, each separately set forth.

(4) Number of square feet of grave space, and number of crypts, and number of niches sold or disposed of subsequent to March 15, 1934, for which the minimum amounts of perpetual care as provided by this Act have not been paid into the perpetual care fund.

All of the information appearing on said statements shall be verified by the President and Secretary, or two (2) principal officers of the cemetery corporation. All the information appearing on said statements shall be revised and so posted and filed annually on or before March first of each year.

Within thirty (30) days after the filing of the aforesaid statement in the office of the Banking Commissioner a true copy thereof shall be published in at least one (1) newspaper of general circulation in the county in which said cemetery is located.

Upon the failure of any perpetual care cemetery to file with the Banking Commissioner on or before March first of each year the statements of its perpetual care funds as required hereby, or to pay the filing fee required by this Act, its corporate charter shall be subject to forfeiture, and such failure to report shall be prima-facie evidence that the cemetery's perpetual care fund does not conform to the requirements of law; the Banking Commissioner of Texas shall notify the Attorney General of Texas, who shall proceed to institute suit as required by the provisions of this Act.

It is provided, however, that the provisions of this Article shall not apply to any family, fraternal or community cemetery, or any association of cemetery lot owners not operated for profit, or any religious corporation, church, religious society or denomination, or corporation solely administering the temporalities of any religious denomination, society or church, now existing or hereafter organized. As amended Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.

¹ Articles 912a—1 to 912a—27; P.C., art. 705b—1.

Emergency. Effective May 18, 1951.

Section 2 of the amendatory act of 1951 read as follows: "No Section of this Act shall be interpreted or construed to amend or modify the present requirements of

filing Articles of Incorporation with the Secretary of State by perpetual care cemeteries or any laws relating to such incorporation."

Art. 912a—3. Payment, receipt, and disbursement of filing fees

At the time of the filing of the statement in duplicate of its perpetual care fund, each cemetery filing same which serves a city, the population of which is twenty-five thousand (25,000) inhabitants or less according to the last preceding Federal Census, shall pay to the Secretary of State each year a filing fee of Ten Dollars (\$10); and each cemetery filing same which serves any city, the population of which is greater than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, shall pay to the Secretary of State each year a filing fee of Twenty-five Dollars (\$25). The Secretary of State shall receive and account for all such filing fees and shall pay the same at the end of the month in which received to the Banking Department which shall keep such moneys in a separate fund to be known as the "Cemetery Perpetual Care Enforcement Fund." Such fund shall be paid out only on itemized vouchers approved by the Banking Commissioner of Texas. All moneys in the "Cemetery Perpetual Care Enforcement Fund" shall be used by the Banking Department in the administration and enforcement of the laws relating to the operation of perpetual care cemeteries and to the creation, investment and expenditure of cemetery perpetual care funds. The Banking Commissioner of Texas may make expenditures from said fund for any purpose which in his opinion is reasonably necessary for the proper enforcement of the laws relating to the operation of perpetual care cemeteries and the creation, investment and expenditure of cemetery perpetual care funds, and for investigations either on his own initiative or on complaints made by others, with reference to the operation of perpetual care cemeteries and the creation, investment and expenditure of cemetery perpetual care funds. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 6.

Effective 90 days after June 8, 1951, date of adjournment.

*Amendment by Acts 1951, 52nd Leg., p. 415, ch. 260, § 1,
see Art. 912a—3 post.*

Art. 912a—3. Payment, receipt, and disbursement of filing fees

At the time of the filing of the statement in duplicate of its perpetual care fund each cemetery filing same which serves a city, the population of which is twenty-five thousand (25,000) inhabitants or less according to the last preceding Federal Census, shall pay to the Banking Commissioner of Texas each year a filing fee of Ten Dollars (\$10); and each cemetery filing same which serves any city the population of which is greater than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, shall pay to the Banking Commissioner of Texas each year a filing fee of Twenty-five Dollars (\$25). The Banking Commissioner of Texas shall receive and account for all such filing fees and shall pay the same at the end of the month in which received to the State Treasurer who shall keep such moneys in a separate fund to be known as the "Cemetery Perpetual Care Enforcement Fund." Such fund shall be paid out only on warrant of the State Comptroller or the State Treasurer upon itemized vouchers approved by the Banking Commissioner of Texas. All moneys in the 'Cemetery Perpetual Care Enforcement Fund' are hereby specifically appropriated for the use of the Banking Commissioner of Texas in the administration and enforcement of the laws relating to the operation of perpetual care cemeteries and to the creation, investment and expenditure of cemetery perpetual care funds. The Banking Commissioner of Texas may make expenditures from said fund for any purpose which in his opinion is reasonably necessary for the proper enforcement of the laws relating to the operation of perpetual

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

care cemeteries and the creation, investment and expenditure of cemetery perpetual care funds, and for investigations either on his own initiative or on complaints made by others, with reference to the operation of perpetual care cemeteries and the creation, investment and expenditure of cemetery perpetual care funds. As amended Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.

Emergency. Effective May 18, 1951.

*Amendment by Acts 1951, 52nd Leg., p. 233, ch. 139, § 6,
see Art. 912a—3, ante.*

Art. 912a—4. Powers and duties of enforcement officers

The Banking Commissioner of Texas shall have authority to require as often as he deems necessary that the custodian of any cemetery perpetual care fund make under oath a detailed report of the condition of said fund, setting forth a detailed description of the assets of said fund, a description of the securities held by said fund, a description of any property upon which any such security constitutes a lien, the cost of acquisition of any such security, the market value of any security at the time of its acquisition, the current market value thereof, the status thereof with reference to default, that the same are not in any way encumbered by debt, that none of the assets of said cemetery perpetual care fund constitute loans to the cemetery for which the funds were established, or to any officer or director thereof and any other information he deems pertinent. When the Banking Commissioner of Texas finds that a cemetery perpetual care fund does not conform to the requirements of law, or when the custodian of said fund fails to make within thirty (30) days after request a report to the Banking Commissioner of Texas of the condition of said fund, the Banking Commissioner of Texas shall notify the custodian of the cemetery perpetual care fund, the cemetery for the benefit of which said fund is established, and the Attorney General of Texas thereof, and it shall be the duty of the Attorney General of Texas to institute within ninety (90) days after the receipt of such notice, unless he shall prior to that time be notified by the Banking Commissioner of Texas that such failure to conform to the requirements of the law or to report has been corrected, suit or quo warranto proceedings in the District Court of any county of this State in which such cemetery is operated, for the forfeiture of the charter of the cemetery corporation if such cemetery has failed to meet the requirements of this Act,¹ and for the dissolution of its corporate existence. If the custodian of such trust fund shall fail to meet the requirements of this Act, then it shall be the duty of the Attorney General of Texas to apply to the District Court of the county, in which such cemetery is operating and for which it has created a permanent trust fund, for proper legal writs to require a report of the perpetual care fund of said cemetery, and if the same has been misappropriated by such custodian, and not being handled as required by law, to have a Receiver appointed by the Court to take custody of said trust funds for the benefit of the cestui que trust; said Receiver is hereby vested with full power to file such suits against such defaulting trustee as may be necessary to require a full accounting and restoration of such endowment funds and turn the residue over to such trustee as the cemetery corporation shall select, in conformity with this Act as the new custodian of its endowment funds; and for such purposes venue is hereby conferred upon the District Courts of this State. As amended Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.

¹ Articles 912a—1 to 912a—27; P.C., art. 705b—1.

Emergency. Effective May 18, 1951.

TITLE 28—CITIES, TOWNS AND VILLAGES

CHAPTER ONE—CITIES AND TOWNS

Art.

966b. Validation of incorporation; incorrect description; excessive area [New].

Art.

974e—8. Annexation of levee improvement district; effect; contracts [New].

Art. 966b. Validation of incorporation; incorrect description; excessive area

Section 1. In each instance where an election has been held for the purpose of incorporating a city, town or village and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings or the order of the county judge declaring such territory to be incorporated, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof and finding and declaring the names of the mayor, aldermen and city secretary of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any City, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and the mayor, aldermen and city secretary named in such order shall constitute the mayor, aldermen and city secretary of such city until their successors are duly elected or appointed and qualified. Acts 1951, 52nd Leg., p. 372, ch. 236.

Emergency. Effective May 17, 1951.

Title of Act:

An Act validating orders entered by county judges declaring the inhabitants of certain cities, towns or villages incorporated, setting forth the boundaries thereof and the mayor and aldermen of such cities, towns or villages; validating the

corporate existence of such cities, towns or villages; providing that the officials named in such order shall constitute the officials of such city; enacting other provisions relating to the subject; and declaring an emergency. Acts 1951, 52nd Leg., p. 372, ch. 236.

Art. 974e—8. Annexation of levee improvement district; effect; contracts

Section 1. Any city, including Home Rule cities and those operating under General Laws or special charters, having a population in excess of four hundred twenty-five thousand (425,000) according to the last preceding Federal Census, which has heretofore annexed or may hereafter annex all of the territory within a levee improvement district organized under the laws of the State of Texas, shall take over the properties and assets and shall assume all debts, liabilities and obligations and perform all functions and services of such district, and such district shall be abolished. No abolishment of such levee improvement district shall affect or impair any existing contracts by and between such levee improvement district and any flood control district or other governmental agency for operation or maintenance of levees or other flood control works, but the city shall assume the rights and obligations of the levee improvement dis-

trict under such contract or contracts. In the event of annexation of the whole district, and the taking over of the assets and liabilities of such a district, the annexing city shall have the power and authority to refund, in whole or in part, any outstanding bonded indebtedness and provide for a sufficient sinking fund to meet the refunding bonds if any are issued.

When less than all of the territory within any such district is so annexed, the governing authorities of such city and district shall be authorized to enter into contracts in regard to the division and allocation of duplicate and overlapping powers, functions and duties between such agencies, and in regard to the use, management, control, purchase, conveyance, assumption and disposition of the properties, assets, debts, liabilities and obligations of such district; provided, however, that the amount of taxes levied by the levee improvement district against any parcel of real estate hereafter so annexed shall be credited against any ad valorem taxes levied against such parcel of real estate by the city. Any such district is expressly authorized to enter into agreements with such city for the operation of the district's utility systems and other properties by such city, and may provide for the transfer, conveyance or sale of such systems and properties of whatever kind and wherever situated (including properties outside the city) to such city upon such terms and conditions as may be mutually agreed upon by and between the governing bodies of such district and city. Such operating contracts may extend for such period of time not exceeding thirty (30) years as may be stipulated therein and shall be subject to amendment, renewal or termination by mutual consent of such governing bodies. No such contract shall contain any provision impairing the obligation of any existing contract of such city or district.

In the absence of such contract, the district shall be authorized to continue to exercise all the powers and functions and be required to discharge such duties and obligations granted to it, or imposed upon it, by law, wholly unaffected by the annexation. The annexing city shall not be required or be obligated to perform any drainage functions in the district; provided however, that the city may, with the consent of the district, construct and maintain drainage facilities therein consistent with the plan of reclamation of such district. The city may, however, perform all other municipal functions which it is authorized to perform and in which the district is not engaged, nor authorized to perform.

Sec. 2. If any clause, phrase, sentence, paragraph, section or provision of this Act, or the application thereof to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of this Act or the application thereof to any other person or thing. Acts 1951, 52nd Leg., p. 561, ch. 326.

Emergency. Effective June 2, 1951.

Title of Act:

An Act prescribing the powers, duties and obligations of cities including Home Rule cities and those operating under General Laws or special charters having a population in excess of four hundred

twenty-five thousand (425,000) inhabitants with reference to properties of levee improvement districts which have heretofore been annexed or which may hereafter be annexed by such cities; providing a savings clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 561, ch. 326.

CHAPTER FIVE—TAXATION**Art. 1066b. Assessor, collector and equalization board acting for included municipality or district****Ordinance or resolution; valuation; Board of Equalization**

Section 1. Any incorporated city, town or village, independent school district, drainage district, water control and improvement district, water improvement district, navigation district, road district, or any other municipality or district in the State of Texas, located entirely within the boundaries of another municipality or district, or a majority of whose territory is located within the boundaries of another municipality or district, is hereby empowered, to authorize, by ordinance or resolution, the Tax Assessor, Board of Equalization and Tax Collector of the municipality in which it is located or in which a majority of its territory is located, to act as Tax Assessor, Board of Equalization and Tax Collector respectively for the municipality or district so availing itself of the services of said officers and Board of Equalization.

The property in said municipality or district utilizing the services of such Assessor, Board of Equalization and Collector shall be assessed at the same value as it is assessed for taxing purposes by the municipality or district the services of whose officers and Board of Equalization are being utilized.

When the ordinance or resolution is passed making available their services, said Assessor shall assess the taxes for and perform the duties of Tax Assessor for the municipality or district so availing itself of his services; the said Board of Equalization shall act as and perform the duties of a Board of Equalization for said municipality or district so availing itself of its services, and said Collector shall collect the taxes and assessments for, and turn over as soon as collected to the depository of said municipality or district or to such other authority as is authorized to receive such taxes and assessments, all taxes or money, so collected, and shall perform the duties of Tax Collector of said municipality or district so availing itself of his services.

In all matters pertaining to such assessments and collections the said Tax Assessor, Board of Equalization and Tax Collector shall be, and hereby are, authorized to act as and shall perform respectively the duties of Tax Assessor, Board of Equalization and Tax Collector of, and according to the ordinances and resolutions of the municipality or district so availing itself of their services, and according to law. As amended Acts 1951, 52nd Leg., p. 275, ch. 159, § 1.

Compensation

Sec. 2. When the Tax Assessor, Board of Equalization, and Tax Collector of any municipality or district have been authorized by ordinance or resolution to act as and perform the duties, respectively, of Tax Assessor, Board of Equalization and Tax Collector of another municipality or district included within its boundaries or a majority of whose territory is included within its boundaries, such included municipality or district shall pay the municipality or district, the services of whose officers and Board of Equalization are being utilized, for said services and for such other incidental expenses as are necessarily incurred in connection with the rendering of such services, such an amount as may be agreed upon by the governing bodies of said two municipalities or districts. As amended Acts 1951, 52nd Leg., p. 275, ch. 159, § 2.

Validation of ordinances, resolutions and acts.

Sec. 2a. All ordinances or resolutions heretofore adopted by any municipality or district a majority of whose territory is located within the boundaries of another municipality or district authorizing said Tax Assessor, Board of Equalization, and Tax Collector of such other municipality or district to act for said municipality or district availing itself of the services of such officers are hereby in all things validated, and all acts of such officers in heretofore assessing and collecting taxes for said municipality or district are hereby in all things validated. Added Acts 1951, 52nd Leg., p. 275, ch. 159, § 3.

Amendment by Act 1951, ch. 159, effective May 10, 1951.

CHAPTER EIGHT—STREETS AND ALLEYS**Art. 1085a. Freeways**

Section 1. The State Highway Commission or the governing body of any incorporated city or town, within their respective jurisdictions may do any and all things necessary to lay out, acquire, construct, maintain and operate any section or portion of any State highway or city street as a freeway, and to make any highway or street within their respective jurisdictions a freeway, except that no existing State highway or city street shall be converted into a freeway except with the consent of the owners of abutting lands, or by the purchase or condemnation of their right of access thereto, providing, however, nothing herein shall be construed as requiring the consent of the owners of abutting lands where a State highway, or city street is constructed, established or located for the first time as a new way for the use of vehicular and pedestrian traffic.

Sec. 2. For the purposes of this Act, the State Highway Commission, County Commissioners Courts and the governing bodies of incorporated cities and towns, may acquire the necessary property and property rights by gift, devise, purchase, or condemnation, in the same manner as such governmental agencies are now or hereafter may be authorized by law to acquire such property for State highways and city streets.

Sec. 3. "Freeway" means a State highway or city street in respect to which the right or easement of access to or from their abutting lands has been acquired in whole or in part from the owners thereof by the State Highway Commission or the governing body of an incorporated city or town as hereinabove provided.

Sec. 4. The State Highway Commission or the governing body of a city or town is authorized to close any highway or street within their respective jurisdictions at or near the point of its intersection with any freeway or to make provisions for carrying any highway or street over or under or to a connection with the freeway and may do any and all things on such highway or street as may be necessary therefor.

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. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict. As amended Acts 1951, 52nd Leg., p. 144, ch. 86, § 1.

Emergency. Effective April 25, 1951.

CHAPTER NINE—STREET IMPROVEMENTS**Art. 1105b. Street improvements and assessments in cities having more than 1000 inhabitants****Power to make improvements; boundary streets**

Section 1. (a) That cities, towns and villages incorporated under either general or special law, including those operating under special charter, or amendments of charter adopted pursuant to the Home Rule provisions of the Constitution, shall have power to cause to be improved, any highway, within their limits by filling, grading, raising, paving, repaving, and repairing in a permanent manner, and by constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks, and by widening, narrowing and straightening, and by constructing appurtenances and incidentals to any of such improvements, including drains and culverts, which power shall include that of causing to be made any one or more of the kinds or classes of improvements herein named or any combination thereof, or of parts thereof.

(b) Whenever a part of the boundary of any such city is upon or along any street or highway, which at that point lies wholly within, partly within and partly without or wholly outside of its limits, such city may improve such portion of such street and assess a part of the cost thereof against the abutting property lying on both sides of such street by the proceedings set forth in this Act, provided that if such street lies wholly or partly within the limits of any other such city the governing body thereof shall consent to the improvement and if assessments are levied against any property lying within the limits of any other city than the one (1) initiating the improvement, the governing body of such other city shall consent to such assessments as hereinafter provided. If assessments are finally levied as particularly provided by Section 9 of this Act against any abutting property lying within the limits of any other city than the one (1) initiating the improvements, such assessments shall not be valid unless the governing body of such other city shall by ordinance or resolution ratify and approve the assessments so levied, and any one owning or claiming any such abutting property, in addition to the right of appeal given by said Section of this Act, shall have the further right of appeal from any such assessment for fifteen (15) days after the passage of the ordinance or resolution by which the governing body of such other city so ratifies and approves such assessments; provided further that if the governing body of such other city does not ratify and approve such assessments within thirty (30) days after the date of the ordinance or resolution levying the same then the city which initiated the project may in the discretion of its governing body repeal and annul all of the proceedings relating thereto, including the contract, if any, for the work; and provided further that failure on the part of the governing body of such other city to so ratify and approve such assessments shall not affect the validity of the assessments which have been levied against any property lying within the limits of the city initiating the improvement.

(c) Whenever a part of the boundary between any two (2) such cities is upon and along any street or highway or is along the edge of any street or highway and the governing bodies of both cities determine the necessity for any such improvement of such portion of said street or highway, then such two (2) cities may contract upon such terms as their respective governing bodies may approve to the effect that one (1) or the other of them shall by the proceedings provided for in this Act,

improve such portion of said street and that the other of such two (2) cities shall pay a part of the cost thereof, such payment to be made at such time or times and subject to such conditions as they may so agree upon; and the use by either of such cities of its funds for such purpose shall be lawful whether the street to be improved lies wholly within, partly within and partly without, or wholly outside of its limits. As amended Acts 1951, 52nd Leg., p. 454, ch. 281, § 1.

Emergency. Effective May 19, 1951.

Section 2 of the amendatory Act of 1951, provided that if any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions hereof.

CHAPTER TEN—PUBLIC UTILITIES

2. ENCUMBERED CITY SYSTEM

Art.

1111c. Issuance of bonds in two series with different security [New].

Art.

1118r. Electric light and power systems; validation of bonds [New].

1118s. Revenue bonds for sewage disposal facilities; cities serving territory outside boundaries [New].

2. ENCUMBERED CITY SYSTEM

Art. 1111b. Additional bonds and refunding bonds; light and power systems

Additional bonds while prior bonds outstanding

Section 1. Any city or town, including any Home Rule City, which has heretofore issued or hereafter may issue bonds payable from and secured by a pledge of revenues from the operation of its electric light and power system, gas system, water system, sewer system, or any combination of two (2) or more of such systems, in the manner provided by Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, as amended, or under any similar law, and while all or part of such bonds remain outstanding, shall have the power from time to time and on one or more occasions to issue bonds or other obligations for the purpose of extending or improving, or both, such system or systems, and such bonds shall constitute a lien upon the revenues thereof in the order of their issuance inferior to the lien securing the payment of any or all issues and series of bonds previously issued. As to any such revenue bonds issued and outstanding prior to the effective date of this Act the power herein conferred shall not be exercised unless expressly permitted in and shall be subject to any restrictions, covenants or limitations contained in the ordinance authorizing their issuance or in the deed of trust or in the trust indenture securing their payment; provided further that in instances in which the ordinance or deed of trust or trust indenture authorizing or securing such revenue bonds (whether such bonds have been issued prior to the passage of this Act or may be hereafter issued), provide for the subsequent issuance of additional bonds on a parity with or of equal dignity to the previously issued revenue bonds (whether an original issue or a refunding issue), such city or town shall have the power to authorize, issue and sell additional bonds from time to time and in different series payable from the entire revenues of such system or systems on a parity with bonds previously issued and secured by liens on such system or systems on a parity with and of equal dignity with the lien securing the bonds previously issued, subject to such conditions as may be contained in the ordinance, deed of trust or trust indenture providing for or securing such

issue of original bonds or refunding bonds. As amended Acts 1951, 52nd Leg., p. 30, ch. 23, § 1.

Emergency. Effective March 17, 1951.

Art. 1111c. Issuance of bonds in two series with different security

Section 1. In the issuance of revenue bonds under Articles 1111-1118, Revised Civil Statutes as amended, for the purpose of improving, enlarging and extending a waterworks system, cities are authorized to issue such bonds in two series, one of which shall be payable from and secured by a pledge of all or any part of the proceeds of a contract between the city and a private corporation whereby the city agrees to sell water to such corporation for the payments therein specified, and the other series shall be payable from and secured by a pledge of the net revenues of the waterworks system or waterworks and sewer systems other than the proceeds of such contract. The ordinances directing the issuance of the bonds may provide that the entire cost of operation, maintenance and repair of the system or systems shall be paid from the revenues thereof other than the proceeds of such water supply contract. Cities are authorized to enter into contracts for the sale of water to private corporations and upon such terms as their governing bodies may prescribe for a period of not exceeding forty (40) years.

Sec. 2. Such bonds and a copy of the proceedings relating to their issuance shall be submitted to the Attorney General for his examination, and if they have been lawfully issued, he shall approve them. The bonds thereupon shall be registered by the Comptroller of Public Accounts and thereafter they shall be incontestable. Acts 1951, 52nd Leg., p. 776, ch. 428.

Emergency. Effective June 15, 1951.

Art. 1115. Control

Municipal retirement systems, application to boards of trustees, see art. 6243h-2.

Art. 1118r. Electric light and power systems; validation of bonds

All revenue bonds issued by any city or town of five thousand inhabitants, or less, for the purpose of acquiring an electric light and power system for said city or town, which bonds were duly sold and delivered to the purchasers thereof at a price of not less than par and accrued interest, and the proceeds of which bonds were duly expended in the acquisition of such electric light and power system, are hereby in all things ratified, validated and confirmed, and such bonds shall constitute legal, binding and valid special obligations of said city or town and shall be payable in the manner provided in the ordinance authorizing their issuance. Acts 1951, 52nd Leg., p. 285, ch. 167, § 1.

Emergency. Effective May 11, 1951.

Title of Act:

An Act validating all revenue bonds issued by cities and towns of five thousand inhabitants, or less, for the purpose of ac-

quiring an electric light and power system; and declaring an emergency. Acts 1951, 52nd Leg., p. 235, ch. 167.

Art. 1118s. Revenue bonds for sewage disposal facilities; cities serving territory outside boundaries

Section 1. This Act shall be applicable to any city which owns a sewer system and disposal plant serving territory, other cities, and military establishments outside the corporate boundaries thereof.

Sec. 2. For the purpose of purchasing or constructing additional sewage disposal facilities, any city to which this Act is applicable is hereby authorized to issue its negotiable bonds, and to secure the payment of such bonds by pledging the net revenues to be derived from sewer service rendered outside the corporate limits of the city. Such bonds may be additionally secured by a pledge of all or part of the net revenues to be derived from sewer service to be rendered within the city. In the issuance of bonds secured only by the net revenues from sewer service rendered outside of the boundaries of the city, the ordinance authorizing the issuance of the bonds may specify what items of expense or portions thereof shall be deducted in arriving at the net revenues, or may prescribe any other formula for that purpose deemed appropriate by the governing body. In the issuance of such bonds, the city may reserve the right to issue additional bonds to the extent and subject to the conditions to be stated in the ordinance authorizing the bonds.

Sec. 3. Any city to which this Act is applicable is authorized to enter into contracts with other cities, persons, corporations and the United States Government to furnish sewer service, and such other cities are authorized to enter into such contracts. Such contracts which have heretofore been entered into and which have not been questioned in litigation pending at the time this Act becomes effective, are hereby validated.

Sec. 4. Whenever a city issues bonds under this Act, it shall be the duty of the governing body thereof to fix rates for service in an amount to pay the maintenance and operation expense and sufficient to pay the bonds as they are scheduled to mature and the interest as it accrues, and to establish and maintain the funds as provided in the ordinance authorizing the bonds; provided, however, that where the consideration to be paid for sewer service is fixed by contract, such consideration shall not be increased during the term of the contract except as provided therein or by agreement of both parties.

Sec. 5. Articles 1111 to 1118, inclusive, and Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended, shall be applicable to the issuance of bonds under this Act, except as otherwise provided in this Act, but no election shall be required for their issuance. When such bonds are approved by the Attorney General, they shall be incontestable. Acts 1951, 52nd Leg., p. 578, ch. 336.

CHAPTER THIRTEEN—HOME RULE

Art.
1170a. Validation of proceedings to amend charter; ordinance not published as required [New].

Art.
1174a—1. Validation of adoption of charter and election and assumption of office [New].

Art. 1170a. Validation of proceedings to amend charter; ordinance not published as required

In any instance where the charter of a home rule city requires ordinances to be published in full in a newspaper once each week for three (3) consecutive weeks prior to passage and which city has heretofore held an election for the purpose of amending its charter and such election was called and held in all things in accordance with the applicable general laws of the State of Texas, and such election resulted favorably to the adoption of the amendment submitted as shown by resolution adopted by the governing body of any such city, all of the proceedings relating to the calling of such election, irrespective of whether such ordinance was published as required by its charter, the notice given prece-

dent to or subsequent to the passage of the ordinance calling such election and the resolution adopted canvassing the returns and declaring the result of such election are hereby validated, and the charter of any such city as thus amended shall constitute the charter of such city under the Constitution and laws of the State of Texas. Acts 1951, 52nd Leg., p. 383, ch. 246, § 1.

Emergency. Effective May 17, 1951.

Title of Act:

An Act validating certain charter amendment election proceedings of home rule cities; and declaring an emergency. Acts 1951, 52nd Leg., p. 383, ch. 246.

Art. 1174a—1. Validation of adoption of charter and election and assumption of office

In each instance where an election has been held heretofore in a city for the purpose of voting upon the adoption of a home rule charter for such city, and where copies of the proposed charter with the date of the election shown thereon were mailed to all of the voters within said city as shown by the tax rolls thereof, and a news item showing the date and purpose of said election was published in a newspaper published within such city at least thirty (30) days prior to the date of the said election, and such news item did not state that the voting would be limited to property owners or taxpayers in the city, and where the officers holding the election did not deny anyone the right to vote upon the ground that he was not a property owner or taxpayer, and such election resulted favorably to the adoption of the charter as shown by a resolution adopted by the governing body of the city either before or after the election of ¹ assumption of office by new members of such governing body under the charter, all of the proceedings relating to the adoption of such charter and the election of and assumption of office by the new members of the governing body are hereby validated, and such charter shall constitute the charter of said city under the Constitution and laws of this State. Acts 1951, 52nd Leg., p. 64, ch. 38, § 1.

¹ So in enrolled bill. Word "and" probably omitted.

Emergency. Effective April 5, 1951.

Title of Act:

An Act validating City Home Rule Charters voted under certain conditions, the proceedings relating to the adoption thereof, and the election of and assumption of office by new members of the governing body of the city under such charter; providing that such charter shall constitute the charter of the city; and declaring an emergency. Acts 1951, 52nd Leg., p. 64, ch. 38.

Art. 1175. Enumerated powers

Appropriations for advertising and promoting growth and development, see art. 2352d.

CHAPTER TWENTY—MISCELLANEOUS PROVISIONS

Art.

1269j—4. Auditoriums, exhibition halls and similar buildings; cities over 125,000 population [New].

Art. 1269j—4. Auditoriums, exhibition halls and similar buildings; cities over 125,000 population

Powers of cities; obligations to be charge on property only

Section 1. All incorporated cities and towns, including home rule cities, having a population exceeding one hundred and twenty-five thou-

sand (125,000) according to the last preceding Federal Census, shall have power to build and purchase, to mortgage and encumber their municipal auditoriums, exhibition halls, coliseums, and other buildings or structures for public gatherings, either, or all, and the income thereof and everything pertaining thereto acquired or to be acquired and to evidence the obligation therefor by the issuance of bonds, notes or warrants, and to secure the payment of funds to purchase same; or to purchase additional lands and facilities, or to build, improve, enlarge, extend or repair such buildings and structures, or any one of them, including the purchase of equipment and appliances necessary in the operation of such buildings and structures. No such obligation of any such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings shall ever be a debt of such city, but solely a charge upon the properties so encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Sale or encumbrance; submission to voters

Sec. 2. No such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such City; nor shall same be encumbered for more than Five Thousand Dollars (\$5,000) except for purchase money, or to refund any existing indebtedness lawfully created, until authorized in like manner. Such vote in either case shall be ascertained at an election, which election shall be held and notice thereof given as is provided in the case of the issuance of municipal bonds by such cities.

Lien of expenses; rates and charges; system of records and account; report of operations

Sec. 3. Whenever the income of any municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall be encumbered under this law, the expenses of operation and maintenance, including all salaries, labor, materials, interest, repairs and additions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such income. Provided, that only such repairs and additions, as in the judgment of the governing body of such city, are necessary to keep such building or structure for public gatherings in operation and render adequate service to such city and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the original security, shall be a lien prior to any existing lien. The rates charged for the use of and for services furnished by any such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall be equal and uniform, and no free use or service shall be allowed except for activities and institutions operated by such city. There shall be charged and collected for such use and 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 buildings or structures or any outstanding indebtedness against same. No part of the income of any such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall ever be used to pay any other debt, expenses or obligation of such city, until the indebtedness so secured shall have been finally paid.

It shall be the duty of the chief executive officer of such city to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the free uses and services rendered, and the value thereof, and showing separately the amounts expended and the

amounts set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, additions, 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 municipal auditorium or other building or structure for public gatherings, to file with the chief executive officer of such city, not later than February 1, a detailed report of the operation of such building or structure for the year ending January 1 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 a result of operation of such building or structure during such calendar year.

Failure or refusal on the part of the chief executive officer 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 municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, or on the part of such superintendent or manager to file or cause to be filed such report, shall constitute a misdemeanor, and upon conviction therefor, such chief executive officer or such superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100) and not more than One Thousand Dollars (\$1,000); and any taxpayer or holder of such indebtedness residing within such city shall have the right, by appropriate civil action in the district court of the county in which said city is located, to enforce the provisions of this Act.

Evidence of indebtedness to include statement as to funds from which payable; approval and registration of bonds

Sec. 4. Every contract, bond, note or other evidence of indebtedness issued or included under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Where bonds are issued hereunder, they may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by such cities. In such case, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds.

Projects self liquidating

Sec. 5. Projects financed in accordance with this law are hereby declared to be self liquidating in character and supported by charge other than by taxation. Acts 1951, 52nd Leg., p. 595, ch. 350.

Emergency. Effective June 2, 1951.

Section 6 of the Act of 1951 read as follows: "All laws and parts thereof, in conflict herewith, are hereby repealed to the extent of the conflict, and this law shall take precedence over all conflicting city charter provisions."

CHAPTER TWENTY-ONE—HOUSING

Art. 1269l. Housing Co-operation Law; short title

Notice of proposed action; petitions and election

Sec. 7-a. None of the actions named in this Act shall ever be consummated until the governing body of such state public body shall have given notice of its intention to enter into a cooperation agreement with a housing authority, such notice to be given by publishing a copy thereof in its officially designated newspaper, if it has one, at least twice; which notice shall state that at the expiration of sixty (60) days the governing body will consider the question of whether or not it will

enter into a cooperation agreement. If, during such sixty-day period, there is presented to the governing body a petition that an election be held on the question of whether or not such governing body shall enter into such cooperation agreement, signed by two thousand (2,000) or five per cent (5%), in number, of all the qualified voters of such state public body, and such petition is found to have the requisite number of legally qualified voters, then it shall be the duty of the governing body to order an election to be held for such purpose at such time as it may designate in the election call; provided, however, that no such election shall be held unless two (2) weeks notice is given as is presently required by law to be given in connection with elections on the question of issuing tax supported bonds. All qualified voters residing in such state public body shall be entitled to vote at such election, and if a majority of those shall be entitled to vote at such election, and if a majority of those voting at such election shall vote in favor of such cooperation agreement, the governing body shall execute such cooperation agreement.

Provided, however, the governing body of said state public body may on its own motion call an election to be held on the question of whether such governing body shall enter into such cooperation agreement. All qualified voters residing in such state public body shall be entitled to vote at such election, and if a majority of those voting at such election shall vote in favor of such cooperation agreement, the governing body of such state public body shall then be authorized to execute such cooperation agreement.

In the event such governing body of a state public body fails or refuses to give notice of its intention to enter into a cooperation agreement with a "Housing Authority" or fails or refuses on its own motion to submit said proposition to the qualified voters of such state public body, as hereinabove provided, then upon the filing of a petition demanding same signed by two thousand (2,000) or five per cent (5%) in number of the qualified voters of said state public body, the governing body of said state public body shall order an election for the purpose of submitting a proposition for the approval of such "Housing Project". All qualified voters residing in such state public body shall be entitled to vote at such election, and if a majority of those voting at such election shall vote in favor of such cooperation agreement, the governing body shall then be authorized to execute such cooperation agreement; provided, however, that the provisions of this section shall not affect any actions taken or to be taken by a state public body with respect to a "Housing Project" for which a cooperation agreement as that term is defined by this Article has been executed prior to the effective date of this Act. The law pertaining to elections for the issuance of city and county bonds as contained in Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, insofar as applicable to and not inconsistent with the provisions of this section, shall govern the elections herein provided for. Added Acts 1951, 52nd Leg., p. 117, ch. 73.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER 22. CIVIL SERVICE [NEW]

FIREMEN AND POLICEMEN

Art. 1269m. Firemen's and Policemen's Civil Service in cities over 10,000

Indefinite suspensions

Sec. 16. The chief or head of the Fire Department or Police Department of the city government shall have the power to suspend indefinitely any officer or employee under his supervision or jurisdiction for the violation of Civil Service rules, but in every such case the officer making such order of suspension shall, within forty-eight (48) hours thereafter, file a written statement with the Commission, giving the reasons for such suspension, and immediately furnish a copy thereof to the officer or employee affected by such act, said copy to be delivered in person to such suspended officer or employee by said department head. Said order of suspension shall inform the employee that he has ten (10) days after receipt of a copy thereof, within which to file a written appeal with the Commission. The Commission shall hold a hearing and render a decision in writing within thirty (30) days after it receives said notice of appeal. Said decision shall state whether or not the suspended officer or employee shall be permanently or temporarily dismissed from the Fire or Police Department or be restored to his former position or status in the classified service in the department. In the event that such suspended employee is restored to the position or class of service from which he was suspended, such employee shall receive full compensation at the rate of pay provided for the position or class of service from which he was suspended, for the actual time lost as a result of such suspension. All hearings of the Commission in case of such suspension shall be public.

The written statement above provided to be filed by the department head with the Commission, shall not only point out the Civil Service rule alleged to have been violated by the suspended employee, but shall contain the alleged acts of the employee which the department head contends are in violation of the Civil Service rules. It shall not be sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated and in case the department head does not specifically point out the act or acts complained of on the part of such employee, it shall be the duty of the Commission promptly to reinstate him. In any Civil Service hearing hereunder, the department head is hereby restricted to his original written statement and charges, which shall not be amended, and no act or acts may be complained of by said department head which did not happen or occur within six (6) months immediately preceding the date of suspension by the department head. No employee shall be suspended or dismissed by the Commission except for violation of the Civil Service rules, and except upon a finding by the Commission of the truth of the specific charges against such employee.

In the event the Commission orders that such suspended employee be restored to his position as above provided, it shall be the duty of the department head immediately to reinstate him as ordered and in event the department head fails to do so, the employee shall be entitled to his salary just as though he had been regularly reinstated.

In the event such department head wilfully refuses to obey the orders of reinstatement of the Commission, and such refusal persists for a period of ten (10) days, it shall be the duty of the chief executive or legislative body of the city to discharge such department head from his employment with the city.

The Commission may punish for contempt any department head who wilfully refuses to obey any lawful order of reinstatement of the Commission, and such Commission shall have the same authority herein to punish for contempt as has the Justice of the Peace. As amended Acts 1951, 52nd Leg., p. 470, ch. 298, § 1.

Emergency. Effective May 22, 1951.

Military Leave of Absence

Sec. 22a. The Civil Service Commission on written application of a member of the fire or police department shall grant military leave of absence without pay to such member to enable him to enter military service of the United States in any of its branches, such leave of absence to continue during the period of active military service of such member. The Civil Service Commission shall grant such leave retroactively back to the commencement of the Korean War. Any such member receiving military leave of absence hereunder shall be entitled to be returned to the position in the department held by him at the time the leave of absence is granted, upon the termination of his active military service, provided he receives an Honorable Discharge and remains physically and mentally fit to discharge the duties of that position; and further provided he makes application for reinstatement within ninety (90) days after his discharge. Upon being returned to said position, such member shall receive full seniority credit for the time spent in the military service. During the absence from the department of any such member to whom military leave of absence shall have been granted by the Civil Service Commission the position in the department held by such member shall be filled in accordance with the other provisions of the Firemen's and Policemen's Civil Service Act subject to the person filling such position being replaced by the member to whom military leave of absence has been granted upon his return to active duty with the department. Any person so replaced and remaining with the department and by reason of such replacement being returned to a position lower in grade or compensation shall have a preferential right for subsequent appointment or promotion to the same or similar position of that from which he has been replaced over any eligibility list for such position, provided he remains physically and mentally fit to discharge the duties of such position. Added Acts 1951, 52nd Leg., p. 161, ch. 99, § 1.

Emergency. Effective April 30, 1951.

Publishing of rules; mailing, posting and distribution

Sec. 23. The Commission shall cause to be published all rules and regulations which may be promulgated by it, and shall publish classification and seniority lists for each department, and such rules and regulations and lists shall be made available upon demand.

Whenever the Commission shall have adopted any such rules or regulations by a majority vote, and shall have caused same to be reduced to writing, typewriting or printing, such rules and such regulations shall thereupon be deemed to be sufficiently published and promulgated within the meaning of this Act and shall be valid and binding, upon the Commission doing or causing to be done the following:

(1) By mailing a copy of such rules and regulations to the Commissioner of Fire and Police, the Chief of the Police Department, and the Chief of the Fire Department.

(2) By posting all such rules and regulations at a conspicuous place for a period of seven (7) days in the Central Police Station and for the same period in the Central Fire Station.

(3) By mailing a copy of all such rules and regulations to each branch fire station.

The Director of Civil Service shall keep on hand copies of said rules and regulations for free distribution to members of the Fire and Police Departments requesting same, and said rules and regulations shall be kept available for inspection by any interested citizen.

No additional publication by way of insertion in a newspaper shall be required and no action need be taken by the City Council or governing body of any such city with reference to said rules or regulations; and in all cities coming under the provisions of this Act, where the Commission has heretofore adopted any such rules and regulations, and has caused same to be reduced to writing, typewriting or printing, and complied with all provisions of this Section, such rules and such regulations are hereby validated ab initio regardless of whether same have been published in a newspaper, or by posting, or otherwise, and regardless of whether any section has been taken with reference thereto by the City Council or governing body of such city. As amended Acts 1951, 52nd Leg., p. 164, ch. 102, § 1.

Emergency. Effective April 30, 1951.

Repeal of provisions in city by vote

Sec. 27(b). In any city in which the provisions of this Act have been in effect for a period of five (5) years, if a petition of ten per cent (10%) of the qualified voters of such city shall be presented to the governing body of such city to call an election for the repeal of the provisions of this Act, then and in that event, the governing body of such city shall call an election of the qualified voters to determine if they desire the repeal of such provisions. Should a majority of the qualified voters so vote to repeal the provisions of this Act, then the provisions shall become null and void as to such city; provided, however, that in any city having a population of less than seventy thousand (70,000) inhabitants, according to the last preceding Federal Census, in which the provisions of this Act have been in effect for a period of two (2) years, the governing body of such city may call an election of the qualified voters to determine if they desire the repeal of such provisions. Should a majority of the qualified voters so vote to repeal the provisions of this Act, then the provisions shall become null and void as to such city. As amended Acts 1951, 52nd Leg., p. 780, ch. 433, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Emergency appointment of persons over 35

Sec. 28 (a). When a city affected by the provisions of this Act is unable to recruit qualified employees in the Fire and Police Departments because of the maximum age limit provided by this Act, and the governing body finds that such condition constitutes an emergency, then the Civil Service Commission of said city shall recommend to the governing body such additional rules and regulations governing the temporary employment of persons in the Fire and Police Departments who are over the age of thirty-five (35) years. Provided, however, that persons employed under the provisions of such rules shall:

- A. Be designated as 'temporary' employees.
- B. Be ineligible for pension benefits.
- C. Be ineligible for appointment or promotion when one or more permanent applicants or employees are available.
- D. Be ineligible to become full-fledged Civil Service Employees.

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

E. Be terminated before any permanent Civil Service Employee is terminated pursuant to Section 21 of this Act. Added Acts 1951, 52nd Leg., p. 425, ch. 265, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 29A—COMMISSIONERS ON UNIFORM LAWS

Art.
1273b. Commission on Uniform State Laws
[New].

Art. 1273a. Repealed. Acts 1951, 52nd Leg., p. 763, ch. 415, § 6. Eff. 90 days after June 8, 1951, date of adjournment

Art. 1273b. Commission on Uniform State Laws

Appointment of Commission

Section 1. A Commission is hereby created to be known as the Commission on Uniform State Laws which shall consist of five recognized members of the bar who shall be appointed by the Governor for terms of four years each, or until their successors are appointed; and in addition thereto, any residents of this state who because of long service in the cause of the uniformity of state legislation shall have been elected life members of the National Conference of Commissioners on Uniform State Laws.

Appointments to Fill Vacancies

Sec. 2. Upon the death, resignation, failure or refusal to serve, of any appointed Commissioner, his office becomes vacant; and the Governor shall make an appointment to fill the vacancy, such appointment to be for the unexpired term of the former appointee.

Meeting and Organization

Sec. 3. The Commissioners shall meet at least once in two years and shall organize by the election of one of their number as Chairman and another as Secretary, who shall hold their respective offices for a term of two years and until their successors are elected.

Duties of Commissioners

Sec. 4. Each Commissioner shall attend the meeting of the National Conference of Commissioners on Uniform State Laws, and both in and out of such National Conference shall do all in his power to promote uniformity in state laws, upon all subjects where uniformity may be deemed desirable and practicable; said Commission shall report to the Legislature at each Regular Session, and from time to time thereafter as said Commission may deem proper, an account of its transactions, and its advice and recommendations for legislation. It shall also be the duty of said Commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws. Acts 1951, 52nd Leg., p. 763, ch. 415.

Effective 90 days after June 8, 1951, date of adjournment.

Section 5 of the Act of 1951 made appropriations. Section 6 read as follows: "Article 1273a, and all other Acts and parts of Acts inconsistent herewith are hereby repealed. Nothing herein provided for shall affect the terms of office of the Commissioners now serving under existing law, and each of them may serve un-

til the end of the present term to which he has been appointed heretofore."

Title of Act:

An Act to provide for the creation of a Commission on Uniform State Laws, the appointment of Commissioners thereto, and making an appropriation for the same. Acts 1951, 52nd Leg., p. 763, ch. 415.

TITLE 32—CORPORATIONS—PRIVATE

CHAPTER ONE—PURPOSES

Art. 1302. 1121, 642, 566 Purposes

7. The encouragement of agriculture and horticulture by associations for the maintenance of public fairs and exhibitions of stock, farm products and implements, equipment or practices used in agriculture or horticulture. As amended Acts 1951, 52nd Leg., p. 5, ch. 5, § 1.

Emergency. Effective Feb. 15, 1951.

108. Corporations may be created to furnish the agent upon whom process may be served, to act as agent for receipt of communications and notices, to establish and maintain registered offices for corporations and other organizations, domestic or foreign, and for individuals, and for the performance of any lawful act in connection therewith; provided, however, no such corporation shall as agent carry on the business of another. Added Acts 1951, 52nd Leg., p. 137, ch. 136, § 1.

Emergency. Effective May 4, 1951.

Art. 1302a. Repealed. Acts 1951, 52nd Leg., p. 868, ch. 491, § 4, eff. Sept. 7, 1951

CHAPTER TWO—CREATION OF CORPORATIONS

Art. 1314. 1133-4-5 Amendments

Any private corporation organized or incorporated for any purpose mentioned in this title, may amend or change its charter or act of incorporation by filing, authenticated in the same manner as the original charter, such amendments or changes with the Secretary of State. A corporation created by special Act of the Legislature shall also file with said officer its original charter and such amendments thereto or changes therein, if any, as have been made by special Act of the Legislature; and the same shall be recorded by the Secretary of State, followed by the proposed amendments or changes thereof. Such amendments or changes shall take effect and be in force from the date of the filing thereof. The certificate of the Secretary of State shall be evidence of such filing. Any private corporation organized for any purpose mentioned in this title may change to another purpose mentioned in this title, by a vote of eighty (80%) per cent of the outstanding voting stock at a meeting called for that purpose; provided no amendment or change violative of the Constitution or laws of this State or any provision of this title shall be of any force or effect. As amended Acts 1951, 52nd Leg., p. 284, ch. 166, § 1.

Emergency. Effective May 11, 1951.

Section 2 of the amendatory Act of 1951 provided that if any portion of this Act shall be held unconstitutional by any court of competent jurisdiction, the remaining provisions hereof shall, nevertheless, be

valid the same as if the portion held unconstitutional had not been adopted by the Legislature as a part of this Act.

Section 3 repealed all conflicting laws and parts of laws.

CHAPTER THREE—GENERAL PROVISIONS

Art. 1327. 1159, 661, 585 Directors' powers

The directors shall have the general management of the affairs of the corporation, and may dispose of the residue of the capital stock at any time remaining unsubscribed, in such manner as the by-laws may prescribe. Contracts of employment may be made and entered into by the corporation with any of its officers, agents, or employees for such period of time as the directors may approve and authorize, when not prohibited by the corporation's charter or by-laws as of the date such contracts are executed. By the adoption of a resolution for that purpose, the Board of Directors of a corporation may ratify and confirm any employment contract heretofore made, provided such contract is not prohibited by the charter or by-laws of such corporation. As amended Acts 1951, 52nd Leg., p. 26, ch. 20, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER TEN—PUBLIC UTILITIES

4. GAS AND LIGHT

Art.

1436b. Use of roads and streets in distribution of gas [New].

Art.

1438a. Mortgages covering after acquired property [New].

4. GAS AND LIGHT

Art. 1436b. Use of roads and streets in distribution of gas

Section 1. Any person, firm or corporation or incorporated city or town engaged in the business of transporting or distributing gas for public consumption shall have the power to lay and maintain pipes, mains, conductors and other facilities used for conducting gas through, under, along, across and over all public highways, public roads, public streets and alleys, and public waters within this State; provided that within the corporate limits of an incorporated city or incorporated town such right shall be dependent upon the consent and subject to the direction of its governing body. Any such person, firm or corporation or incorporated city or town shall notify the State Highway Commission or the Commissioners Court having jurisdiction, as the case may be, when it proposes to lay any such pipes, mains, conductors and other fixtures for conducting gas within the right-of-way of any state highway or county road outside the limits of an incorporated city or incorporated town, whereupon the Highway Commission or the Commissioners Court, if it so desires, may designate the place upon the right-of-way where the same shall be laid. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such person, firm or corporation or incorporated city or town at its own expense to relocate its pipes, mains, conductors or other fixtures for conducting gas on a state highway or county road outside the limits of an incorporated city or incorporated town so as to permit the widening or changing of traffic lanes, by giving thirty (30) days written notice to such person, firm or corporation or incorporated city or town and specifying the facility or facilities to be moved and indicating the place on the new right-of-way where such facility or facilities may be placed. Such person, firm or corporation or in-

corporated city or town shall replace the grade and surface of such road or highway at its own expense.

Sec. 2. If after the effective date of this Act an unincorporated area becomes incorporated, any person, firm or corporation or incorporated city or town which, at the date of such incorporation, has pipes, mains, conductors or other facilities within such area so incorporated, may continue to exercise the rights conferred by Section 1 hereof for ten (10) years after the date of such incorporation without consent but subject to the direction of the governing body.

Sec. 4. If any section, sentence, phrase, clause or any part of any section, sentence, phrase or clause of this Act shall for any reason be held invalid, such decision shall not affect the remaining portions of this Act; and it is hereby declared to be the intention of this Legislature to have passed each section, sentence, phrase, clause, or part thereof, irrespective of the fact that any other section, sentence, phrase or clause or part thereof may be declared invalid. Acts 1951, 52nd Leg., p. 829, ch. 470.

Effective 90 days after June 8, 1951, date of adjournment.

Section 3 of the Act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict only.

Art. 1438a. Mortgages covering after acquired property

Application of law

Section 1. The provisions of this Act shall apply to mortgages, deeds of trust and other security instruments hereafter executed by, and to secure the payment of bonds, notes, or other obligations of: (a) corporations engaged in this State in the generation, manufacture, transmission, distribution and sale of electric energy and power to the public; (b) corporations engaged in this State in the transportation, distribution and sale through local distribution system or systems of natural gas to the public for domestic, commercial, industrial or any other use; and (c) corporations owning or operating in this State any gas pipe line or lines for the transportation and sale of natural gas to other pipe line companies or to local distributing systems, or to municipalities, or to industrial consumers for their own use.

Notice of lien

Sec. 2. Any mortgage, deed of trust, or other security instrument hereafter executed by any corporation referred to in Section 1 of this Act, which by its terms subjects to the lien thereof property then owned, and property to be acquired by the corporation subsequent to the execution by it of such mortgage, deed of trust, or other security instrument, upon the deposit thereof for record in the proper recording office of any county shall constitute notice of the lien of such mortgage as to the property situated in such county and specifically described in the said mortgage, deed of trust, or other security instrument, and upon compliance with the provisions of Section 3 of this Act shall also constitute notice of the lien of such mortgage, deed of trust, or other security instrument as to the property in such county acquired by the corporation subsequent to the execution and deposit for record in such county of such mortgage, deed of trust, or other security instrument.

Notice of lien on property subsequently acquired; statement on title page

Sec. 3. Any such mortgage, deed of trust, or other security instrument mentioned in Section 2 of this Act shall constitute notice of the lien thereof as to any property acquired, or to be acquired, by the corporation sub-

sequent to the execution of such mortgage, deed of trust, or other security instrument upon the deposit for record in the proper recording office of: (a) the mortgage, deed of trust, or other security instrument; and (b) an affidavit of the president or a vice president or the treasurer or the secretary of the corporation executing such mortgage, deed of trust, or other security instrument setting forth and reciting that the corporation that executed such mortgage, deed of trust, or other security instrument is one of the corporations referred to in Section 1 of this Act, which affidavit shall follow immediately after the signatures and acknowledgment of those executing such instrument. Each mortgage, deed of trust, or other security instrument of the class to which the provisions of this Act are applicable shall have typed or printed on the title page the following: "This Instrument Contains After-acquired Property Provisions."

Change of mortgagor's corporate name

Sec. 4. Any corporation of the class referred to in Section 1 of this Act which has executed and filed for record in this State a mortgage, deed of trust or other security instrument meeting the requirements of this Act with respect to the lien thereof covering after-acquired property of such corporation, which shall, subsequent to the execution and filing for record of such mortgage, deed of trust or other security instrument, change its corporate name or merge or consolidate with another company or corporation, shall promptly file for record in each county in this State wherein is situated any property of said corporation, an affidavit or other evidence of such change of name or merger or consolidation which shall set forth the corporate name of said corporation which it will have immediately after such change of name, merger or consolidation; and such mortgage, deed of trust, or other security instrument shall not constitute notice as to property acquired by the corporation succeeding the mortgagor until such affidavit or other evidence of a change in the name of the mortgagor has been filed as required by this section.

Applicability of law; instruments previously executed and filed; law cumulative

Sec. 5. The provisions of this Act shall be applicable only to mortgages, deeds of trust and other security instruments that are executed after the effective date of this Act by a corporation of the class referred to in Section 1 of this Act and that comply with the provisions of this Act with respect to the filing thereof. No mortgage, deed of trust or other security instrument executed and filed for record prior to the effective date of this Act, regardless of whether the same was executed by a corporation of the class referred to in Section 1 of this Act, or otherwise, shall be impaired, invalidated or otherwise affected by any of the provisions of this Act. The provisions of this Act are cumulative of existing statutes, and nothing herein shall be so construed as to modify or affect existing statutes relating to the execution or recording of mortgages, deeds of trust, or other security instruments. Acts 1951, 52nd Leg., p. 320, ch. 195.

Emergency. Effective May 17, 1951.

CHAPTER FIFTEEN—OIL, GAS, SALT, ETC.

Art.

1499A. Equipment for refining and processing; ownership and operation [New].

Art. 1499a. Equipment for refining and processing; ownership and operation

Section 1. Corporations organized under the laws of Texas or admitted to do business in Texas, for the purpose of prospecting, exploring, mining or drilling for oil or other minerals shall have power to own and operate equipment for refining and processing such minerals.

Sec. 2. Such of said corporations as engage in the production of oil or gas may, in their charters or permits, adopt the provisions of Chapter 15 of Title 32, Revised Civil Statutes, 1925, as amended. Acts 1951, 52nd Leg., p. 230, ch. 135.

Emergency. Effective May 4, 1951.

CHAPTER SEVENTEEN—TRUST COMPANIES AND INVESTMENTS

LOAN AND BROKERAGE COMPANIES

Art.

1524a—1. Lending companies [New].

LOAN AND BROKERAGE COMPANIES

Art. 1524a. Corporations for loaning money and dealing in bonds and securities without banking and discounting privileges; regulations

Examinations by Banking Commissioner; expenses and fees

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 examination, shall accept a financial statement made on such form and containing such information as he desires. Such fees, together with all other fees, penalties and revenues collected by the Banking Department, shall be retained by said Department and shall be expended only for the expenses of said Department. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 4.

Effective 90 days after June 8, 1951, date of adjournment.

Regulations as to sale of securities

Sec. 7. All bonds, notes, certificates, debentures, or other obligations sold in Texas by any corporation affected by a provision of this Act shall be secured by securities of the reasonable market value, equaling at least at all times the face value of such bonds, notes, certificates, debentures, or other obligations. If such corporation sells in Texas, bonds, notes,

certificates, debentures, or other obligations upon which it receives installment payments, such bonds, notes, certificates, debentures and other obligations shall be secured at all times by securities having the reasonable market value equal to the withdrawal or cancellation value of such obligations outstanding. Said securities shall be placed in the hands of a corporation having trust powers approved by the Banking Commissioner of Texas as Trustee under a trust agreement, the terms of which shall be approved in writing by the Banking Commissioner of Texas, or at the option of any such corporation which sells in Texas, bonds, notes, certificates, debentures, or other obligations upon which it receives installment payments, such corporation may upon application to, and approval by, the Banking Commissioner of Texas deposit securities having a reasonable market value equal to the withdrawal or cancellation value of such obligations outstanding with the State Treasurer of Texas in lieu of such deposits with a Trustee as set forth hereinabove, provided that, in the event such deposit is made with the State Treasurer of Texas in lieu of such Trustee: (1) Such corporation shall file a certified statement of reserve liability and detailed list of securities so deposited, semi-annually with the Banking Commissioner of Texas, which certification shall be made by a Certified Public Accountant, who shall be approved by and be satisfactory to the Banking Commissioner. The Corporation shall pay a fee of Fifteen Dollars (\$15) for filing each such statement. (2) Said securities shall be deposited with the State Treasurer under a trust agreement, the terms of which shall be approved by the Banking Commissioner.

It is further provided that if any corporation, transacting business under this Act, shall have heretofore deposited securities with a corporation having trust powers under a trust agreement as provided hereinabove desires to avail itself of the option to deposit securities with the State Treasurer of Texas in lieu of such Trustee, it shall first secure a written certificate from the Banking Commissioner of Texas approving said securities on deposit with the Trustee as being eligible and sufficient for deposit with the State Treasurer, and it shall file a copy of said certificate with the State Treasurer of Texas, and with the said Trustee whereupon said Trustee shall deliver said securities so approved to the State Treasurer of Texas together with the trust agreement and/or agreements relating thereto, who shall issue his receipt therefor to said Trustee, furnishing a copy thereof to the corporation owning the same, which said receipt of the State Treasurer of Texas shall fully and finally relieve, acquit, and discharge the said Trustee of all responsibility and liability under such trust agreement, and/or agreements, whereupon said State Treasurer shall be considered as, and be substituted as, Trustee instead and in the place of the original Trustee.

In the event that the Banking Commissioner approves part of said securities with the said Trustee as being sufficient and eligible for deposit with the State Treasurer, but does not approve all of said securities with said Trustee, and/or in the event there is a deficiency of securities with said Trustee, the corporation owning said securities and desiring to avail itself of its option of depositing said securities with the State Treasurer, shall deposit with the State Treasurer of Texas a sufficient amount of eligible securities as defined herein securing the approval of the Banking Commissioner of Texas as to said securities so that the amount of securities so deposited together with the amount of securities with said Trustee that are approved by the Banking Commissioner as being eligible and sufficient have the reasonable market value equal to the withdrawal or cancellation value of such obligations then outstanding. Whereupon the said Trustee shall, as hereinabove set forth, deliver to the

State Treasurer of Texas the securities in its hands, taking the receipt of the State Treasurer therefor, and in such case such Trustee shall be fully and finally relieved, acquitted, and discharged of all responsibility and liability under such trust agreement, and/or agreements.

Any such corporation which sells in Texas, bonds, notes, certificates, debentures or other obligations upon which it receives installment payments, which upon the effective date of this Act has securities deposited with a Trustee hereunder, may, with the written consent of the Banking Commissioner continue under said trust agreement, and/or agreements as to bonds, notes, certificates, debentures or other obligations already sold in Texas upon which it receives installment payments, and avail itself of the option to deposit such securities as to future sales of said obligations with the State Treasurer of Texas by complying with this Act in the same manner that a corporation hereafter organized would be required to comply with this Act.

"All trust agreements hereafter made as to any securities placed with the State Treasurer under this Act shall provide that such securities may be substituted with securities of equal value by the filing by the corporation with the State Treasurer of a certificate of authorization to do so from the Banking Commissioner of Texas, and that any of said securities may be withdrawn by the corporation from the State Treasurer by the filing with the State Treasurer of a certificate issued by the Banking Commissioner that the withdrawing of the particular securities is authorized by the Banking Commissioner, and that its withdrawal will not reduce the amount of securities below the amount required by this Act. Provided, that before selling or offering for sale on the installment plan in Texas any such bonds, notes, certificates, debentures, or other obligations, such corporation shall file with the Banking Commissioner specimen copies of such bonds, notes, certificates, debentures or other obligations. Unless within sixty (60) days after the filing of any such specimen copy the Banking Commissioner issues a notice to such corporation of a hearing to determine whether such instrument is fraudulent, unreasonable or inequitable, or has an unreasonable or inequitable cash surrender value, the same shall be deemed to have been approved by the Banking Commissioner. But if, after hearing pursuant to notice issued within said period of sixty (60) days, the Banking Commissioner should find and determine that any such bond, note, certificate, debenture, or other obligation is either fraudulent, unreasonable, or inequitable, or has an unreasonable or inequitable cash surrender value, such corporation shall have no right to sell or offer for sale in the State of Texas such bond, note, certificate, debenture or other obligation so found to be fraudulent, unreasonable, or inequitable, or has an unreasonable or inequitable cash surrender value. Provided, that any such corporation may have such finding reviewed in the District Court of Travis County, Texas, by filing suit against the Banking Commissioner in such Court at any time within sixty (60) days after receiving notice of such finding. In such suit such corporation shall be entitled to a trial de novo on the issues on which the Banking Commissioner shall have made such adverse findings. If as the result of such trial the issues shall be determined favorably to such corporation, the adverse findings of the Banking Commissioner shall have no further binding force or effect; and in that event, the right to sell such notes, bonds, or other obligations may be protected by injunction issued in said cause. Provided, that either party shall have the right of appeal according to statutes governing appeals in civil cases. Provided further that the requirements contained herein obligating corporations selling notes, bonds, certificates, debentures, or other obligations, whether in single payment or on the installment plan, to secure said issuance and sale by

securities of a reasonable market value equal to the face of single payment certificates or to the withdrawal or cancellation value of installment payment certificates, shall not apply to corporations having a minimum capital of Fifty Thousand Dollars (\$50,000), where such sales are made to debtors who are at the time indebted to the issuer; conditioned the face amount sold shall not exceed the amount of the then debt of purchaser to issuer; and further conditioned the bonds, notes, certificates, debentures and other obligations sold in Texas provide for maturity of the indebtedness at a date not later than the final maturity date of the indebtedness of purchaser to issuer; and conditioned further that the issuance and sale of such certificates, whether collateralized or not, shall obligate the Banking Commissioner of Texas to make examinations to the same extent as if collateral were required.

All cash or securities left with the State Treasurer in compliance with Article 696, Revised Civil Statutes of 1925, shall be considered as part of the collateral required under this section.

All bonds, notes, certificates, debentures, or other obligations, sold or offered for sale in Texas by such corporation shall definitely describe the character of collateral securing the payment of such obligation.

In the event any such corporation shall sell or offer for sale in Texas, any bonds, notes, certificates, debentures, or other obligations without complying with this section, such conduct shall constitute grounds for the forfeiture of its charter and for receivership at the suit of the Attorney General which suit shall be brought upon the request of the Banking Commissioner of Texas.

Notwithstanding the foregoing provisions of this Section 7, no face amount certificate company as defined in Section 4 of the Federal Investment Company Act of 1940, being Public Law No. 768, Seventy-sixth Congress¹ registered as an investment company under said Investment Company Act of 1940 and subject to the applicable provisions thereof, shall be required to make or maintain any deposit of securities under this Section with respect to its liabilities under or arising out of any face amount certificates as defined in Section 2(a) (15) of the Federal Investment Company Act of 1940², issued by it after the effective date of this Act, if such face amount certificate company maintains a deposit of assets as required by Section 28(c) of said Federal Investment Company Act of 1940³, which meet the requirements of that Section. As amended Acts 1951, 52nd Leg., p. 406, ch. 256, § 1.

¹ 15 U.S.C.A. §§ 80a-1 to 80a-52.

² 15 U.S.C.A. § 80a-2.

³ 15 U.S.C.A. § 80a-28.

Effective 90 days after June 8, 1951, date of adjournment.

Application of this Article, see art. 1524a-1.

Art. 1524a—1. Lending companies

Powers

Section 1. Corporations heretofore formed or hereafter to be formed for the purposes specified in Sections 48, 49 and 50 of Article 1302 and Article 1303b, Revised Civil Statutes of the State of Texas for 1925, and having a minimum paid-in capital of Fifty Thousand (\$50,000.00) Dollars shall, in addition to the powers conferred upon corporations by the general corporate law, have the following powers:

(a) To lend money and to deduct interest therefor in advance at a rate not to exceed ten (10%) per cent per annum, and in addition to require and receive uniform weekly or monthly installments on its certificates of indebtedness purchased by the borrower simultaneously with the loan transaction, or otherwise, and as a condition to said loan, and pledged with the lender as security for said loan;

(b) To issue and sell certificates of investment, either fully paid or on the installment plan;

(c) The making of said loan and the sale of said investment certificate, though done at the same time and as a condition to the granting of the loan, shall nevertheless be considered as two separate and distinct transactions. The periodic payments required on the installment investment certificates, hypothecated as security for the loan, shall not be considered as a periodic repayment of the loan; and payments, when, as, and if received, shall be applied as a credit to the installment investment certificate and shall not be applied as a credit upon the loan;

(d) The certificates of investment permitted to be sold under the provisions of this Act shall be subject in every respect to the provisions of Article 1524a, Revised Civil Statutes of the State of Texas, and such certificates, either single pay or installment, shall contain such provisions as to yield, retirement, penalties, withdrawal values and obligations, as may be approved by the Banking Commissioner of the State of Texas from time to time. Each such installment certificate shall contain a provision that at maturity same may at the option of the holder be converted into a fully paid certificate;

(e) To charge for such necessary expenses incurred in connection with the making of a loan as are authorized to be charged by banks under the provisions of Article 342—508, Vernon's Civil Statutes;

(f) Corporations may charge interest at the rate of ten (10%) per cent per annum on any amount which is in default, but under no circumstances shall interest be compounded;

(g) Corporations may charge for actual fees paid, for filing, recording or releasing any instrument securing the loan, or the actual cost of title insurance, or attorney's fees, actual fees for examining titles to real property, securing loans or advances, or for noting a lien on the certificate of title to a motor vehicle;

(h) Corporations may charge ten (10%) per cent attorney's fee or other costs incurred in the collection of any contract in default, and the actual expenses of repossessing, storing or selling any collateral pledged as security on any contract in default, and such corporations shall be liable for attorney's fees to be fixed by the court in suit to cancel any contract for violation of the provisions hereof wherein a judgment against any such corporation is entered;

(i) Notwithstanding the foregoing provisions, no corporation exercising any of the foregoing powers shall charge, contract for or receive, directly or indirectly, or by means of a subsidiary or affiliate, any amounts for expenses necessary for the protection of the lender, services, default charges, filing and recording or releasing instruments and costs, which in the aggregate exceed the equivalent of three and one-half (3½%) per cent of the face amount of the loan;

(j) If any such corporation is in process of either voluntary or involuntary liquidation, the payments made by such borrower, plus credited dividends or interest, on his investment certificate or certificates, 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 such corporation were not in liquidation.

Certificates not construed as borrowed money

Sec. 2. The issuance and sale of certificates of investment in the transaction of the business of corporations organized hereunder shall not be construed to be borrowed money.

Records of loans

Sec. 2(a) Each corporation which makes any of the charges or performs any of the operations under Sections 1(a) through 1(j) of this Act shall keep, at each place of business where it operates, a complete set of records showing a list of loans made, giving the name and address of the borrower or borrowers, the amount of cash actually lent, the amount of charges actually made or sought to be made, itemized, and the amount of principal and interest the borrower agreed to pay, whether such transaction was an original lending or the renewal of an existing loan, the amount of money paid to the lender by the borrower and how the same was credited; such records shall be indexed alphabetically according to borrowers, so that one index reference will refer to all loans made to a particular borrower.

Inspection of records

Sec. 2(b). The complete set of books and records on all loans made by each corporation hereunder shall at all reasonable times during business hours be subject to immediate inspection by the Banking Commissioner, or his duly authorized agents, by the Attorney General, or his duly authorized agents, and by the District or County Attorney, or his duly authorized agent, and such books and records as to any particular borrower shall at all reasonable times during business hours be subject to immediate inspection by the borrower, or his duly authorized agents.

Communication with borrower's employer

Sec. 2(c). It shall be unlawful for any corporation affected herein, its agents, servants, or employees, to communicate with the employer of any borrower relating to any loan made by the licensee to the borrower, for which the corporation has collected; has attempted to collect, or is attempting to collect usurious interest.

Examination, supervision and liquidation

Sec. 3. All provisions of Article 1524a, Revised Civil Statutes of the State of Texas for 1925, relating to the examination, supervision and liquidation of corporations issuing and selling certificates under said Article, shall apply to corporations organized under this Act.¹ The provisions of Article 696 of the Revised Civil Statutes of the State of Texas for 1925 shall not apply to corporations organized hereunder.

The Banking Commissioner of Texas shall examine, or cause to be examined, such corporations, annually, or oftener if he deems it necessary. Said corporations shall pay the actual traveling expenses, hotel bills, and all other actual expenses incident to such examination and a fee of twenty-five (\$25.00) Dollars per day per person engaged in such examination. Such fees, together with any other revenues that may be received under the provisions of this Act shall be received by the Department of Banking and disbursed according to the provisions of House Bill No. 51 of the 52nd Legislature, 1951.²

¹ This article.

² Articles 342—101A et seq., 881a—9, 912a—3, 1524a, § 2, 2465, 3921, 3921a.

Strict construction; usury laws not repealed

Sec. 3(a). The provisions of this Act shall be strictly construed, and it is hereby declared to be the intention of the Legislature that nothing here-

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

in shall repeal, alter or amend any of the provisions of the existing laws relating to usurious interest. Acts 1951, 52nd Leg., p. 832, ch. 472.

Effective 90 days after June 8, 1951, date of adjournment.

Sections 4 and 5 of the Act of 1951, read as follows:

"Sec. 4. All laws or parts of laws in conflict herewith are hereby repealed; provided, however, that any existing rights and remedies of whatever character now accruing to any borrower shall not be deemed to have been abrogated by the provisions of this Act, and provided further, that if there is any conflict in this Act with

the provisions of this Section, it is the express intent of the Legislature that this Section shall prevail.

"Sec. 5. If any section, paragraph, sentence, clause, phrase or word of this Act, or the application thereof to any person, firm or corporation is held invalid, such holdings shall not affect the validity of the remaining portion of this Act; and the Legislature hereby declares that it would have enacted the remaining portions despite such invalidity."

CHAPTER NINETEEN "A"—NON-PAR CORPORATIONS

Art.

1538n. Allotment and sale of shares to employees [New].

Art. 1538n. Allotment and sale of shares to employees

Any corporation organized under the provisions of Chapter 77, Acts of the Thirty-ninth Legislature, Regular Session, 1925, as amended by the Forty-first Legislature and the Forty-ninth Legislature¹ may, upon such terms and restrictions as its Board of Directors may prescribe, adopt and carry out a plan for the allotment and sale of, or the granting of options for the purchase of, any of its unissued shares to the employees, including officers, of the corporation, or of subsidiary corporations, at a price or prices equal to or less than the market value thereof, and for the payment of such shares in installments or at one time; provided such plan is authorized by the Charter or any amendment thereof, or by the written consent or vote of the holders of not less than a majority of the shares of stock of the corporation entitled to vote at the time the plan is adopted; and, provided further, the shares otherwise subject to pre-emptive rights may be allotted or sold or optioned under such plan free from such pre-emptive rights only with such written consent or vote of the holders of the shares entitled to exercise pre-emptive rights as shall be specified in the Charter, bylaws or other document which defines such pre-emptive rights. Acts 1951, 52nd Leg., p. 214, ch. 126, § 1.

¹ Article 1538a et seq.

Emergency. Effective May 2, 1951.

TITLE 33—COUNTIES AND COUNTY SEATS

Chap.

Art.

8. County Fire Marshall [New] - - - - - 1606c

CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art.

1577a. Validation of sales when Commissioner not appointed [New].

Art. 1577a. Validation of sales, when Commissioner not appointed

In all cases wherein the Commissioners Court of any county, acting as such court or through some individual or individuals appointed by it for such purpose, has sold, or attempted to sell, any land, or interests in land, belonging to such county; and where such Commissioners Court shall have failed to appoint a Commissioner to sell and dispose of such real estate belonging to said county, at public auction; and where such Commissioners Court gave notice of its intention to sell such lands, describing the same, by publication of such notice in some newspaper published in the county, having a general circulation therein, once a week for a period of three (3) consecutive weeks, designating the time and place after such publication where such Commissioners Court would receive and consider bids for the same; and where, on the date specified in such notice, such Commissioners Court received and considered any and all bids submitted for the purchase of said lands, or any portion thereof which were advertised for sale; and where such Commissioners Court, in its discretion, awarded such land, or any part thereof to the highest bidder submitting a bid therefor; and where the consideration thus bid and accepted was received by such county; and where such Commissioners Court or some person or persons thereunto authorized by order of such Commissioners Court, made, executed, acknowledged and delivered to such successful bidder a deed or other instrument of conveyance purporting to convey to such purchaser the said property; and where more than three years have elapsed since the date of the execution and delivery of such deed or instrument of conveyance: that such sales and conveyances, or attempted sales and conveyances, are hereby in all things validated. Provided that nothing in this Act shall be construed as validating any sale or attempted sale of any lands given, donated or granted to such county for the purpose of education, made in any other manner than is directed by law; and provided further, that this Act shall not apply to any sale or conveyance the validity of which is involved in any litigation pending at the time this Act becomes effective. Acts 1951, 52nd Leg., p. 177, ch. 112, § 1.

Emergency. Effective May 2, 1951.

CHAPTER SEVEN—COUNTY HOME RULE

Art.

1606b. Bexar county; manner of determining result [New].

Art. 1606b. Bexar county; manner of determining result

Section 1. Authority is hereby conferred upon Bexar County to adopt a "Home Rule Charter" in accordance with the provisions of Section 3

of Article IX of the Constitution of Texas by a favoring vote of the resident qualified electors of said County, and it shall not be necessary for the votes cast by the qualified electors residing within the limits of all the incorporated cities and towns of the county to be separately kept nor separately counted from those cast by qualified electors of the county who do not reside within the limits of any incorporated city or town, and a favoring majority of the votes of such electors cast in the county as a whole shall determine the result of such election.

Sec. 2. The authority hereby granted is by a two-thirds ($\frac{2}{3}$) vote of the total membership of each House of the Legislature. Acts 1951, 52nd Leg., p. 70, ch. 43.

Emergency. Effective April 12, 1951.

Title of Act:

An Act providing that authority is conferred on Bexar County to adopt a "Home Rule Charter" in accordance with the provisions of Section 3 of Article IX of the

Constitution of the State of Texas by a favoring vote of the resident qualified electors of said County; and declaring an emergency. Acts 1951, 52nd Leg., p. 70, ch. 43.

CHAPTER 8.—COUNTY FIRE MARSHAL [New]

Art.

1606c. Counties with over 600,000 inhabitants.

Art. 1606c. Counties with over 600,000 inhabitants

Establishment of office; compensation; facilities; exemption from liability

Section 1. The Commissioners Court in all counties having a population in excess of 600,000 inhabitants according to the last preceding Federal Census may, at its option and if it deem advisable, by proper order set up and establish the office of County Fire Marshal for such period of time as it may desire, but not to exceed the term for which the members of said court are elected; said court may provide for such compensation to be paid the County Fire Marshal as in its judgment it may deem advisable. Authority is granted to such Commissioners Court to provide office facilities, equipment, transportation, assistants and professional services as it may deem necessary for said County Fire Marshal for the proper execution of his duties. Except in cases of gross neglect or willful malfeasance in office, said County Fire Marshal, his assistants or employees shall not be answerable in damages for any acts or omissions to any persons in the performance of his or their duties.

Investigation of fires

Sec. 2. It shall be the duty of the said County Fire Marshal to investigate the cause, origin and circumstances of every fire occurring within the county, outside of any incorporated city, town or village, by which property has been destroyed or damaged, and he shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall begin within twenty-four hours, not including Sunday, after the County Fire Marshal receives notice or information of any such fire.

Record of fires

Sec. 3. The County Fire Marshal shall keep or cause to be kept in his office a record of all fires occurring within the county, outside of any incorporated city, town or village, together with all facts, statistics and circumstances, including the origin of the fire and the estimated amount

of the loss, which may be determined by his investigation. Such record shall be kept in a legible and permanent form and be so preserved that the same may be at all times accessible and open for inspection.

Witnesses and evidence; filing of criminal charges; contempt

Sec. 4. When in his opinion further investigation is necessary, the County Fire Marshal shall have the power to subpoena witnesses to appear before him and testify as to their knowledge of facts and circumstances surrounding the fire or attempt at setting of the fire; he shall be empowered to administer oaths and affirmations to any person appearing as a witness before him; he shall take and preserve written statements, affidavits and depositions as he shall deem fit; he shall file in courts of competent jurisdiction any charges of arson, attempt to commit arson, or any other crime or conspiracy to defraud, against any and all persons whom he shall deem guilty; he shall require the production before him of any book, paper or document deemed pertinent to such investigation and shall file misdemeanor charges in courts of competent jurisdiction against any witness who refuses to be sworn, who refuses to appear and testify, or who fails and refuses to produce before him any book, paper or document touching on any matter under examination when called upon by the County Fire Marshal to do so. Any person found guilty of such conduct of contempt of the proceedings held by the County Fire Marshal shall upon conviction be fined not more than Twenty-five (\$25.00) Dollars and costs in any court of competent jurisdiction.

Privacy of examinations; service of process

Sec. 5. The investigations and examinations may be conducted by said County Fire Marshal in private; all persons may be excluded from being present except the persons under examination; and the witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they shall have been examined. All process shall be served by any Constable or Sheriff and the same shall be signed by the County Fire Marshal in his official capacity.

Oath and bond; qualifications

Sec. 6. The said County Fire Marshal shall qualify by taking the oath prescribed by the Constitution and giving such good and sufficient bond as the Commissioners Court of the county may prescribe and fix, conditioned for the faithful and strict performance of his duties of office. He shall not be interested, directly or indirectly, in the sale of any fire-fighting apparatus or equipment or fire extinguisher of any kind, nor be engaged in any manner of fire insurance business.

Right of entry; investigation of dangerous conditions; order

Sec. 7. He shall have the authority to enter and examine any and all buildings or structures where a fire has occurred, in the performance of his duties of office, day or night, and examine any adjacent buildings or premises, but this authority shall be exercised with reason and discretion and with a minimum burden upon the persons living in said buildings. It shall be his duty when called upon, or when he has reason to believe that it is in the interest of safety and fire-prevention, to enter any premises and inspect the same, and if he find that because of inflammable substance being present, dangerous or dilapidated walls, ceilings or other parts of the structure existing, improper lighting, heating or other facilities being used that endanger life, health or safety, or if because of chimneys, wiring, flues, pipes, mains or stoves, or any substance he shall find stored in any building, he believes that the safety of said building

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

or that of its occupants is endangered and that it will likely promote or cause fire or combustion, he shall be empowered to order the said situation rectified forthwith and the owner or occupant of the said structure shall comply with the orders of the said County Fire Marshal or shall be adjudged guilty of contempt of said order and of a misdemeanor which may be punished in a court of competent jurisdiction by a fine not in excess of One Hundred (\$100.00) Dollars and costs; and each recurring refusal to so rectify such conditions shall be deemed as a separate offense and violation of such order.

Enforcement of regulations; cooperation with State Fire Marshal and municipal fire chiefs

Sec. 8. The County Fire Marshal shall be charged with enforcing all State and county regulations that pertain to fire or other combustible explosions or damages caused by fire or explosion of any kind; he shall coordinate the work of the various fire-fighting and fire-prevention units within the county, provided that, he shall have no authority to enforce his orders or decrees within the corporate limits of any incorporated city, town or village within the county and shall act in a cooperative and advisory capacity there only when his services are requested; he shall cooperate with the State Fire Marshal in the carrying out of the purposes of fire prevention, fire fighting or post-fire investigation. If called upon by any city or State Fire Marshal or the Fire Chief of any incorporated city, town or village to aid in an investigation or to take charge of same, he shall act in the capacity requested.

Civil rights and actions

Sec. 9. No action taken by the County Fire Marshal shall affect the rights of a policy-holder or any company in respect to a loss by reason of any fire so investigated; nor shall the result of any such investigation be given in evidence upon the trial of any civil action upon such policy; nor shall any statement made by any insurance company, its officers, agents or adjusters, nor by any policy-holder or anyone representing him, made with reference to the origin, cause or supposed origin or cause of the fire to the Fire Marshal or to anyone acting for him, or under his direction, be admitted in evidence or be made the basis for any civil action for damages. Acts 1951, 52nd Leg., p. 548, ch. 323.

Emergency. Effective June 2, 1951.

Title of Act:

An Act authorizing counties having a population in excess of 600,000 inhabitants according to the last preceding Federal Census to create the office of County Fire Marshal; providing for office facilities, equipment and personnel; providing for the term, duties and compensation of such officer; providing for his right to examine

witnesses, administer oaths, hold investigations, enter premises, and keep records; providing means for punishing contempt of his orders; providing for private or public hearings; providing certain limitations and qualifications; providing for use of statements made by or to him in evidence in civil trials; and declaring an emergency. Acts 1951, 52nd Leg., p. 548, ch. 323.

TITLE 34—COUNTY FINANCES**2. COUNTY AUDITOR**

Art.
1645a—8. Office abolished in counties of
8,900 to 25,000 [New].

2. COUNTY AUDITOR

Art. 1645a—8. Office abolished in counties of 8,900 to 25,500

No County Auditor shall hereafter be appointed in any county having a population of not more than twenty-five thousand, five hundred (25,500) and not less than eight thousand, nine hundred (8,900) where no such County Auditor has been appointed by the District Court prior to April 1, 1951, except upon petition of the County Commissioners Court, and in all such counties the duties of such County Auditor in such counties shall be performed by other officers as may be prescribed by general law. Acts 1951, 52nd Leg., p. 693, ch. 399, § 1.

Emergency. Effective June 2, 1951.

TITLE 35—COUNTY LIBRARIES

2. LAW LIBRARY

Art.
1702h. County law libraries in all counties
[new].

2. LAW LIBRARY

Art. 1702h. County law libraries in all counties

Authority to establish

Section 1. The Commissioners Courts of all counties within this State shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a County Law Library.

Establishment on initiative of Commissioners Court; appropriations

Sec. 2. The Commissioners Court of any county may establish and provide for the maintenance of such County Law Library on its own initiative, and appropriate the sum of Ten Thousand Dollars (\$10,000) or such part thereof as it may deem necessary, to establish properly such library, and shall appropriate each year such sum as may be necessary to properly maintain and operate such County Law Library, which shall be established, maintained and operated at the county seat.

Gifts and bequests

Sec. 3. The Commissioners Court of such county is hereby authorized and empowered to receive on behalf of such county any gift or bequest for such County Law Library. The title of all of such property shall be vested in the county. Where any gift or bequest is made with certain conditions, and accepted by the county, these conditions shall be administered as designated by the donor.

Costs; law library fund

Sec. 4. For the purpose of establishing County Law Libraries after the entry of such order, there shall be taxed, collected, and paid as other costs, the sum of One Dollar (\$1) in each civil case, except suits for delinquent taxes, hereafter filed in every county or district court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the clerks of the respective courts in said counties and paid by said clerks to the County Treasurer to be kept by said Treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall not be used for any other purpose.

Managing committee

Sec. 5. 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.

Salaries

Sec. 6. 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, or from appropriations made under this Act.

Administration of fund; rules; space and shelving

Sec. 7. Such fund shall be administered by the Commissioners Court, or under its direction, 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 of such county; 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.

Custody and use of funds; claims

Sec. 8. All funds for the County Law Library shall be in the custody of the County Treasurer of such county, or other official who may discharge the duties commonly delegated to county treasurers. They shall constitute a separate fund and shall not be used for any other purpose than those of such County Law Library. Each claim against the County Law Library shall be acted upon and allowed or rejected in like manner as other claims against the county.

Partial invalidity

Sec. 9. If any section, paragraph, clause, phrase, sentence, or portion of this Act be held invalid or unconstitutional, such invalidity shall not affect the remainder thereof. Acts 1951, 52nd Leg., p. 777, ch. 429.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act authorizing counties in this State to provide for the establishment of County Law Libraries; and to initiate sums of money for such libraries, and to receive gifts and bequests for such libraries; and also providing for assessments to be made in each civil case for maintenance of such

libraries; to manage or vest management of such libraries and to administer all funds for such libraries; to set salaries of any employees, and to have custody of all funds of such county libraries; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 777, ch. 429.

TITLE 40—COURTS—DISTRICT

CHAPTER FOUR—TERMS OF COURT

Art. 1919. 1718, 1111, 1127. Terms of court

Section 1. Each Judge of the District Courts shall hold the regular terms of his court at the county seat of each county in the District twice in each year, unless additional terms should be prescribed by law, and shall hold such special terms as may be required by law.

Sec. 2. In all Judicial Districts in Texas containing more than one county, the District Court may hear and determine all preliminary and interlocutory matters in which a jury may not be demanded, and unless there is objection from some party to the suit, hear and determine any non-contested or agreed cases except divorce cases and contests of elections, pending in his District, and may sign all necessary orders and judgments therein in any county in his Judicial District, and may sign any order or decree in any case pending for trial or on trial before him in any county in his District at such place as may be convenient to him, and forward such order or decree to the clerk for filing and entry. Any District Judge assigned to preside in a court of another Judicial District, or who may be presiding in exchange or at the request of the regular Judge of said Court may in like manner hear, determine and enter any such orders, judgments and decrees in any such case which is pending for trial or has been tried before such visiting Judge; provided that all divorce cases, all default judgements, and all cases in which any of the parties have been cited by publication shall be tried in the county in which filed.

Sec. 3. All orders heretofore entered by District Judges in any county in their District, or by a non-resident Judge lawfully holding court in the District by designation, exchange or by request, according to law under the authority of the amendment to Section 7, Article 5 of the Constitution of Texas, adopted by the people of Texas on November 6, 1949, are hereby declared valid. As amended Acts 1951, 52nd Leg., p. 341, ch. 212.

Emergency. Effective May 17, 1951.

The act of 1951 recited in its title that it was an act to amend article 1919. The body of the act contained no amendatory provision but section 1 repealed the pro-

visions of art. 1919, and it was evidently the intention to add thereto the provisions of sections 2 and 3.

TITLE 41—COURTS—COUNTY

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

Art.

1969a—2. Judges of county courts at law authorized to act for county judge [New].

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

DALLAS COUNTY PROBATE COURT [NEW]

Art.

1970—31a. Probate Court of Dallas County.

HARRIS COUNTY AT LAW NO. 3 [NEW]

1970—110b. County Court at Law No. 3 of Harris County.

EASTLAND COUNTY COURT [NEW]

1970—141a. Eminent domain and probate jurisdiction; civil and criminal jurisdiction transferred.

McLENNAN COUNTY AT LAW

1970—298b. County Court at Law of McLennan County [New].

BEXAR COUNTY AT LAW NOS. 1 AND 2

1970—301a. Official shorthand reporters; salary [New].

1970—301b. Salaries of judges [New].

CAMERON COUNTY AT LAW

1970—305a. Name changed to County Court at Law of Cameron County [New].

GILLESPIE COUNTY COURT

1970—318a. Civil and criminal jurisdiction restored [New].

HIDALGO COUNTY [NEW]

1970—341. County Court at Law of Hidalgo County.

Art. 1969a—2. Judges of county courts at law authorized to act for county judge

Section 1. The Judge of any County Court at Law in any county having a population of less than six hundred thousand (600,000) 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. 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. 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. 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. 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 1951, 52nd Leg., p. 601, ch. 355.

Emergency. Effective June 2, 1951.

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

DALLAS COUNTY PROBATE COURT

Art. 1970—31a. Probate Court of Dallas County

Section. 1. There is hereby created a County Court to be held in and for Dallas County, to be called the Probate Court of Dallas County.

Sec. 2. The Probate Court of Dallas County shall have the general jurisdiction of a Probate Court within the limits of Dallas County, concurrent with the jurisdiction of the County Court of Dallas County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court of Dallas County there shall be transferred to the docket of said Court, under the direction of the County Judge and by order entered on the Minutes of the County Court of Dallas County, such number of such proceedings and matters then pending in the County Court of Dallas County as shall be, as near as may be, one half in number of the total of all of the same then pending, and all writs and processes theretofore issued by or out of said County Court of Dallas County in such matters or proceedings shall be returnable to the Probate Court of Dallas County as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed, with the County Clerk of Dallas County, irrespective of the Courts or Judge to which the matter or proceeding is addressed, shall be filed by said Clerk alternately in said respective Courts in the order in which the same are deposited with him for filing, beginning first with the County Court of Dallas County. The County Judge of Dallas County, in his discretion, may, by an order entered upon the Minutes of the County Court of Dallas County, on or after the first day of the initial term of said Probate Court of Dallas County, transfer to said Probate Court any such matter or proceeding then or thereafter pending in the County Court of Dallas County, and all processes extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

Sec. 4. The County Court of Dallas County shall retain, as heretofore, the powers and jurisdiction of said Court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a

Probate Court with respect to all matters and proceedings of such nature other than those provided in Section 3 of this Act to be transferred to and filed in the Probate Court of Dallas County. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, and all ex-officio duties of the County Judge of Dallas County, as they now exist, shall be exercised by the County Judge of Dallas County, except in so far as the same shall by this Act expressly be committed to the Judge of the Probate Court of Dallas County. Nothing in this Act contained shall be construed as in anywise impairing or affecting the jurisdiction of the County Court of Dallas County at Law No. 1, or the County Court of Dallas County at Law No. 2.

Sec. 5. The practice and procedure in the Probate Court of Dallas County shall be the same as that provided by law generally for the County Courts of this State; and all Statutes and laws of the State, as well as all rules of court relating to proceedings in the County Courts of this State, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of said Court, apply equally thereto.

Sec. 6. The Probate Court of Dallas County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said Court, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing County Courts throughout the State.

Sec. 7. There shall be two (2) terms of said Probate Court of Dallas County in each year, and the first of such terms shall be known as the January-June Term; it shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday after the effective date of this Act.

Sec. 8. There shall be elected in said County by the qualified voters thereof, at the General Election, for a term of two (2) years and until his successor shall have been duly qualified, a Judge of the Probate Court of Dallas County, who shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election. A Judge of said Court shall be appointed by the Commissioners Court of Dallas County as soon as may be after the passage of this Act, who shall hold office from the date of his appointment until the next General Election and until his successor shall be duly elected and qualified.

Sec. 9. The Judge of the Probate Court of Dallas County shall execute a bond and take the oath of office as required by the laws relating to County Judges.

Sec. 10. Any vacancy in the office of the Judge of the Probate Court of Dallas County may be filled by the Commissioners Court of Dallas County by the appointment of a Judge of said Court, who shall serve until the next General Election and until his successor shall be duly elected and qualified.

Sec. 11. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Dallas County, the County Judge of Dallas County shall sit and act as Judge of said Court, and may hear and determine, either in his own courtroom or in the courtroom of said Court, any matter or proceeding there pending, and may enter any orders in such

matters or proceedings as the Judge of said Court might enter if personally presiding therein.

Sec. 12. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Dallas County and the County Judge of Dallas County, a Special Judge of the Probate Court of Dallas County may be appointed or elected, as provided by the general laws relating to County Courts and to the Judges thereof.

Sec. 13. The County Clerk of Dallas County shall be the Clerk of the Probate Court of Dallas County. The seal of the Court shall be the same as that provided by law for County Courts, except that the seal shall contain the words "Probate Court of Dallas County." The Sheriff of Dallas County shall, in person or by deputy, attend the said Court when required by the Judge thereof.

Sec. 14. The Judge of the Probate Court of Dallas County shall collect the same fees as are now or hereafter established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected, and from and after the date of his qualification as Judge of said Court he shall receive an annual salary to be fixed by order of the Commissioners Court of Dallas County, of not less than Six Thousand, Five Hundred Dollars (\$6,500) nor more than Eight Thousand, Two Hundred and Fifty Dollars (\$8,250), payable monthly, to be paid out of the County Treasury by the Commissioners Court.

Sec. 15. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 16. If any section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by the Courts of this State, the invalidity of such portion of the Act shall not be construed to affect any other part of the Act. Acts 1951, 52nd Leg., p. 293, ch. 174.

Emergency. Effective May 15, 1951.

HARRIS COUNTY AT LAW NO. 3

Art. 1970—110b. County Court at Law No. 3 of Harris County

Section 1. There is hereby created a court to be held in Harris County, Texas, to be called the "County Court at Law No. 3 of Harris County, Texas."

Sec. 2. The County Court at Law No. 3 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the judges of said court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the judge thereof.

The County Court at Law No. 3 of Harris County, Texas, and the judge thereof shall have, and is hereby granted the same jurisdiction and powers in civil actions or proceedings that are now or may be conferred by law upon and vested in the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the judges thereof; the clerk of the County Court at Law of Harris County, Texas, shall also be the clerk of said County Court at Law No. 3

of Harris County, Texas, in civil matters; and shall file each sixth civil action or proceeding filed in said courts in the County Court at Law No. 3, beginning with the first civil action or proceeding filed so that the first civil action or proceeding filed after the effective date of this Act and every sixth civil action or proceeding thereafter filed shall be docketed in the County Court at Law No. 3 of Harris County, Texas, and the second civil action or proceeding filed and every sixth civil action or proceeding thereafter filed shall be docketed in the County Court at Law No. 2 of Harris County, Texas, and the third, fourth, fifth and sixth civil action or proceeding filed and every third, fourth, fifth and sixth civil action or proceeding thereafter filed shall be docketed in the County Court at Law of Harris County, Texas, and so on in rotation; and said clerk shall keep separate dockets for each of said courts; and shall tax the official court reporter's fee as costs in civil actions in each of said courts in like manner as said fee is taxed in civil cases in the district courts; and each of the judges of said County Courts at Law may with the consent of the judge of the court to which transfer is to be made, transfer civil actions or proceedings from his respective court to any one of the other courts by the entry of an order to that effect upon the docket, and the said County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the judges thereof, shall transfer to the said County Court at Law No. 3 of Harris County, Texas, any civil actions or proceedings pending on the dockets of said courts on the effective date of this Act, as may be necessary in order that the now overcrowded civil dockets of said courts may be relieved, and said County Court at Law No. 3 of Harris County, Texas, and the judge thereof, shall have jurisdiction to hear and determine said civil matters, and render and enter the necessary and proper orders, decrees, and judgments therein. The judges of the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the court from which the cause is transferred, provided that no cause shall be transferred without the consent of the judge of the court to which transferred.

Sec. 3. At each General Election, there shall be elected a judge of the County Court at Law No. 3 of Harris County, Texas, who shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years, and who shall hold his office for two (2) years and until his successor shall have been duly qualified; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a judge of the County Court at Law No. 3 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next General Election and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law No. 3 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 4. The judge of the County Court at Law No. 3 of Harris County, Texas, shall appoint an official shorthand reporter for such court,

who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the Law relating to "official court reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the District Courts of Harris County is paid.

Sec. 5. The county clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 3 of Harris County, Texas, in civil matters and the district clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 3 of Harris County, Texas, in criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, in civil matters and causes. The district clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Court at Law No. 2 of Harris County, Texas.

Sec. 6. The sheriff of Harris County, either in person or by deputy, shall attend said court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 7. The seal of the County Court at Law No. 3 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Court at Law No. 3 of Harris County, Texas," and said seal shall be judicially noticed.

Sec. 8. A special judge of said court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 9. The terms of the court hereby created shall begin on the first Monday of the months of June, August, October, December, February and April of each year. The session of said court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

Sec. 10. When this Act becomes effective all civil actions or proceedings having numbers ending with 3, 6 and 9 pending on the docket of the County Court at Law of Harris County, Texas, shall be transferred to and docketed in the County Court at Law No. 3 of Harris County, Texas, by the county clerk and jurisdiction of such civil actions and proceedings so transferred is hereby conferred upon the County Court at Law No. 3 of Harris County, Texas. All criminal cases of even numbers pending on the docket of the County Court at Law No. 2 of Harris County, Texas, on the effective date of this Act shall be transferred to and docketed in the County Court at Law No. 3 of Harris County, Texas, by the district clerk and jurisdiction of such causes so transferred is hereby conferred upon the County Court at Law No. 3 of Harris County, Texas.

Sec. 11. The judge of the County Court at Law No. 3 of Harris County, Texas, may exchange benches with the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, in the same manner that the judges of the

County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, are authorized to exchange benches under the provisions of Section 5 of Senate Bill No. 144, Chapter 16 and Section 5 of Senate Bill No. 143, Chapter 24, Acts of the Forty-first Legislature, Regular Session, 1929.

Sec. 12. The practice in said County Court at Law No. 3, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now, or may hereafter be prescribed for county courts.

Sec. 13. All process issued out of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, prior to the time when the clerks thereof shall transfer cases from the docket of said courts, as provided in Section 10 of this Act, in cases transferred as therein provided, shall be returned to and filed in the court hereby created, and shall be equally as valid and binding upon the parties to such transferred cases as though such process had been issued out of the County Court at Law No. 3 of Harris County, Texas. Likewise, in cases transferred to any one of the County Courts at Law by order of the judge of one of said courts as provided in Section 2 of this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which such transfer may be made.

Sec. 14. If any part of this Act is held unconstitutional by a court of competent jurisdiction such holding of unconstitutionality shall not affect the validity of the remaining provisions of this Act.

Sec. 15. All laws or parts of laws in conflict with the Act are hereby repealed to the extent of such conflict only. Acts 1951, 52nd Leg., p. 170, ch. 108.

Emergency. Effective May 2, 1951.

JEFFERSON COUNTY AT LAW

Art. 1970—122. Salary of judge; fees collected and accounted for

The Judge of the County Court of Jefferson County at Law shall receive a salary of Eight Thousand (\$8,000.00) Dollars per annum, to be paid out of the County Treasury of Jefferson County, Texas, on order of the Commissioners Court of said County; and said salary shall be paid monthly in equal installments. The Judge of the County Court of Jefferson County at Law, shall assess the same fees as are now prescribed by law, relating to County Judges' fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection; no part of which shall be paid to the said Judge, but he shall draw a salary as above specified in this Section. As amended Acts 1951, 52nd Leg., p. 4, ch. 4, § 1.

Emergency. Effective Feb. 15, 1951.

Section 2 of the amending Act of 1951 provided that if any section or part of this Act shall be held to be unconstitutional, the remaining sections or parts thereof shall not be affected, but shall remain in force and effect.

EASTLAND COUNTY COURT

Art. 1970—141a. Eminent domain and probate jurisdiction; civil and criminal jurisdiction transferred

Section 1. The County Court of Eastland County shall retain and continue to have and exercise the general jurisdiction in matters of emi-

ment domain, general jurisdiction of probate courts, and all other jurisdiction now or hereafter conferred by the Constitution and laws of this State, except as is hereinafter provided, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said County Court shall have no civil jurisdiction and no criminal jurisdiction except jurisdiction to receive and enter pleas of guilty in misdemeanor cases, and except as to final judgments referred to in Section 2 hereof.

Sec. 2. The District Court having jurisdiction in Eastland County shall have and exercise jurisdiction in all matters and cases of a civil nature and in all matters of a criminal nature, except as to such jurisdiction that the County Court has to receive and enter pleas of guilty in misdemeanor cases as is provided in Section 1 hereof, whether the same be of original jurisdiction or of appellate jurisdiction, over which, by the general laws of the State of Texas now existing and hereinafter enacted the County Court of said county would have had jurisdiction and all pending civil and criminal cases be, and the same are, hereby transferred to the District Court having jurisdiction in Eastland County, Texas, and all writs and process heretofore issued by or out of said County Court in all pending civil or criminal cases be, and the same are, hereby made returnable to the District Court sitting in Eastland County, Texas. However, there shall not be transferred to said District Court jurisdiction over any judgments, either in civil or criminal cases, rendered prior to the time this Act takes effect and which have become final, but as to such judgments the said County Court shall retain jurisdiction for the enforcement thereof by all appropriate process.

Sec. 3. The County Attorney of Eastland County shall represent the State in all misdemeanor cases before the District Court of Eastland County, and shall receive therefor the same fees to which he would be entitled under the law as County Attorney had said cases been tried in the County Court.

Sec. 4. The clerk of the County Court of Eastland County is, and he is hereby required within twenty (20) days after this Act takes effect to file with the clerk of the District Court of said county all original papers in cases here transferred to the said District Court, and all Judges' dockets and certified copies of any interlocutory judgment, or other order entered in the minutes of the County Court in said cases so transferred; and the district clerk shall immediately docket all such cases on the docket of the District Court of Eastland County in the same manner and place as each stands on the docket of the County Court. It shall not be necessary that the district clerk refile any papers theretofore filed by the county clerk, nor shall he receive any fees for the filing of the same, but papers in said case bearing the file mark of the county clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the district clerk. Said county clerk in cases so transferred shall accompany the papers with a certified bill of cost and against all cost deposits, if any, the county clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the district clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court. Acts 1951, 52nd Leg., p. 671, ch. 388.

Emergency. Effective June 2, 1951.

McLENNAN COUNTY AT LAW

Art. 1970—298b. County Court at Law of McLennan County

Section 1. There is hereby created a Court to be held in McLennan County, to be called the County Court at Law of McLennan County.

Sec. 2. The County Court at Law of McLennan County shall have jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws of the State, the County Court of said county would have jurisdiction, except as provided in Section 3 of this Act; and all cases now pending in the County Court of said county, other than probate matters and such as are provided in Section 3 of this Act, be and the same are hereby transferred to the County Court at Law of McLennan County, and all writs and process, civil and criminal, heretofore issued by or out of the County Court of said county, other than pertaining to matters over which by Section 3 of this Act, jurisdiction remains in the County Court of McLennan County, be and the same are hereby made returnable to the County Court at Law of McLennan County. The jurisdiction of the County Court at Law of McLennan County and the Judge thereof shall extend to all matters of eminent domain of which jurisdiction has been heretofore vested in the County Court or in the County Judge, but this provision shall not affect the jurisdiction of the Commissioners Court, or of the County Judge of McLennan County as the presiding officer of such Commissioners Court as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the Judge thereof. The County Court at Law of McLennan County and the Judge thereof shall have concurrent jurisdiction with the County Court of McLennan County and the Judge thereof in the trial of insanity cases and the restoration thereof, approval of applications for admission to State Hospitals and Special Schools where admissions are by application, applications for beer licenses and the power to punish for contempt.

Sec. 3. The County Court of McLennan County shall retain as heretofore, the general jurisdiction of a Probate Court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors as provided by law; and the said Court, and the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said court, and also to punish contempts under such provisions as are or may be provided by law governing County Courts throughout the State; but said County Judge of McLennan County shall have no other jurisdiction, civil or criminal. The County Judge of McLennan County shall be the Judge of the County Court of McLennan County. All ex-officio duties of the County Judge shall be exercised by the said Judge of the County Court of McLennan County, except insofar as the same shall by this Act be committed to the Judge of the County Court at Law of McLennan County.

Sec. 4. The terms of the County Court at Law of McLennan County, shall be held as follows, to-wit:

On the first Mondays in January, March, May, July, September and November in each year, and each term of said Court shall continue in

session until and including the Saturday next preceding the beginning of the next succeeding term thereof. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts.

Sec. 5. There shall be elected in McLennan County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of McLennan County, who shall be a qualified voter in said county, and who shall be a regularly licensed attorney at law in this State, well informed in the laws of this State, and who shall have resided in and been actively engaged in the practice of law in this State or as the Judge of a Court for a period of not less than five (5) years next preceding such general election, who shall hold his office for two (2) years, and until his successor shall have been duly qualified.

Sec. 6. The Judge of the County Court at Law of McLennan County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 7. A Special Judge of the County Court at Law of McLennan County may be appointed or elected when and under such circumstances as are provided by law relating to County Courts and to the Judges thereof, who shall receive the sum of Ten (\$10.00) Dollars per day for each day he so actually serves, to be paid out of the General Fund of the county by the Commissioners Court.

Sec. 8. The Court created by this Act and the Judges thereof shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, and supersedeas, and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said Court or of any other Court or tribunal inferior to said Court.

Sec. 9. The Clerk of the County Court of McLennan County shall be the Clerk of the County Court at Law of McLennan County. The seal of said Court shall be the same as that provided by law for County Courts except that the seal shall contain the words "Clerk of the County Court at Law of McLennan County". The Sheriff of McLennan County shall in person or by deputy attend the said Court when required by the Judge thereof.

Sec. 10. The Judge of the County Court at Law of McLennan County is authorized to appoint a secretary for such County Court at Law; such secretary shall receive the same compensation as now allowed to the secretary of the Judge of the County Court; the Judge of the County Court at Law of McLennan County shall have the authority to terminate the employment of said secretary at any time.

Sec. 11. Any vacancy in the office of the Judge of the Court created by this Act shall be filled by the Commissioners Court of McLennan County until the next general election. The Commissioners Court of McLennan County shall, as soon as may be, after this Act shall take effect, appoint a Judge of the County Court at Law of McLennan County, who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 12. The Judge of the County Court at Law of McLennan County shall assess the same fees as are or may be established by law relating to County Judges, all of which shall be collected by the Clerk of said Court and be by him paid monthly into the County Treasury; and the Judge of said County Court at Law shall receive an annual salary of Six Thousand, Six Hundred (\$6,600.00) Dollars, payable monthly, to be paid out of the County Treasury by the Commissioners Court; provided that said Commissioners Court may, if and when it sees fit, pay the Judge of said Court a larger amount of annual salary, to be paid monthly out of

the County Treasury in accordance with Chapter 320, page 601, 51st Legislature. Acts 1949.¹

Sec. 14. The County Judge of McLennan County shall receive an annual salary of Six Thousand, Six Hundred (\$6,600.00) Dollars to be paid monthly out of the County Treasury, out of the general fund of the county. Said County Judge shall assess the same fees, in matters within the jurisdiction of the County Court, as are or may be prescribed by law relating to County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be by him paid into the County Treasury monthly, for the use and benefit of the general fund; provided that the Commissioners Court of McLennan County may, if and when it sees fit, pay the County Judge a larger amount of annual salary, to be paid monthly out of the County Treasury in accordance with Chapter 320, page 601, 51st Legislature, Acts 1949.¹ Acts 1951, 52nd Leg., p. 386, ch. 248.

¹ Article 3912g.

Effective 90 days after June 8, 1951, date of adjournment.

Sections 13 and 15 of the Act of 1951, read as follows:

"Sec. 13. Chapter 591, page 1177, of the Acts of 1949, 51st Legislature, [Art. 199 (19), §§ 8-12] is now in all things hereby repealed.

"Sec. 15. The provisions of the Act shall become effective on September 1, 1951."

Title of Act:

An Act creating the County Court at Law of McLennan County defining the jurisdiction of said Court; regulating prac-

tice therein; prescribing the terms of said Court; providing for Clerk thereof; providing for transfer of all cases pending in the County Court to said Court; creating the office of Judge of the County Court at Law of McLennan County; providing for the selection of the Judge of said Court; prescribing his qualifications, fixing his compensation; and limiting the jurisdiction of the County Court of McLennan County and providing for the annual salary of the County Judge. Acts 1951, 52nd Leg., p. 386, ch. 248.

BEXAR COUNTY AT LAW NOS. 1 AND 2

Art. 1970—301a. Official shorthand reporters; salary

From and after the effective date of this Act the Official Shorthand Reporter for the County Court at Law No. 1, of Bexar County, Texas, and the Official Shorthand Reporter for the County Court at Law No. 2, of Bexar County, Texas, shall each receive an annual salary of Five Thousand, Five Hundred Dollars (\$5,500), said annual salary to be paid to each of said Official Shorthand Reporters in equal monthly installments out of the general fund of Bexar County, Texas, upon orders of the Commissioners Court of said County. Acts 1951, 52nd Leg., p. 217, ch. 129, § 1.

Emergency. Effective May 2, 1951.

Art. 1970—301b. Salaries of judges

From and after the effective date of this Act the Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall each receive an annual salary of Eight Thousand, Two Hundred and Fifty Dollars (\$8,250). Said annual salary shall be paid to each of said Judges in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County, upon orders of the Commissioners Court of Bexar County, Texas. Acts 1951, 52nd Leg., p. 867, ch. 490, § 1.

Emergency. Effective June 21, 1951.

Title of Act:

An Act providing that the Judges of the County Courts at Law Nos. 1 and 2, of

Bexar County, Texas, shall receive an annual salary of Eight Thousand, Two Hundred and Fifty Dollars (\$8,250), payable in

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

equal monthly installments out of the General Fund of Bexar County upon orders of the Commissioners Court; and declaring an emergency. Acts 1951, 52nd Leg., p. 867, ch. 490.

CAMERON COUNTY COURT AT LAW

Art. 1970—305. County court at law Cameron county created

Change of name, see art. 1970—305a.

Art. 1970—305a. Name changed to County Court at Law of Cameron County

Section 1. The name of the "County Court of Cameron County at Law," created by House Bill No. 91, Chapter 59, Acts of the Fortieth Legislature, First Called Session, 1927, codified as Article 1970—305 of Vernon's Civil Statutes of the State of Texas, is hereby changed to County Court at Law of Cameron County.

Sec. 2. All laws heretofore or hereafter enacted by the Legislature, applicable or relating to the "County Court of Cameron County at Law" shall hereafter be applicable and relate to the County Court at Law of Cameron County. Acts 1951, 52nd Leg., p. 115, ch. 70.

Effective 90 days after June 8, 1951, date of adjournment.

GILLEPSIE COUNTY COURT

Art. 1970—318a. Civil and criminal jurisdiction restored

Section 1. Hereafter the County Court of Gillespie County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Gillespie County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Gillespie County shall, in addition to the civil and criminal jurisdiction conferred upon county courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the justices courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon justices courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said court in civil cases, of which court has appellate, original or concurrent jurisdiction with the justices courts, where the amount in controversy does not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the justices courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in this Act, nor shall this Act be construed to deny

the right of appeal from the justice court to said county court in any case originally brought in the justice court, where the right to appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Gillespie County, Texas, within thirty (30) days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said county of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said county court and to file said transcript, together with the original papers in each case in the county court of said county and the County Clerk shall enter said cases on the respective dockets of said county court as appearance cases for trial by said court.

Sec. 8. The terms of said courts shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August, and the first Monday in November, of each year; and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners Court of said county may hereafter change the terms of said court whenever it may be deemed necessary by said Commissioners Court. Acts 1951, 52nd Leg., p. 770, ch. 421.

Effective 90 days after June 8, 1951, date of adjournment.

Section 9 of the act of 1951 repealed conflicting laws and parts of laws insofar as they related to Gillespie County.

Title of Act:

An Act relating to the jurisdiction of the County Court of Gillespie County; conferring upon said court civil and criminal

jurisdiction and increasing the criminal and civil jurisdiction of said court; conforming the jurisdiction of the District Court of said county to such change; fixing the time of holding court and to repeal all laws in conflict with this Act; and declaring an emergency. Acts 1951, 52nd Leg., p. 770, ch. 421.

NUECES COUNTY

Art. 1970—339. County court at law of Nueces County

Sec. 17. From and after the passage of this Act the Judge of the County Court at Law of Nueces County shall receive a salary of Six Thousand, Five Hundred (\$6,500.00) Dollars 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 Nueces 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, and 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 1951, 52nd Leg., p. 542, ch. 318, § 1.

Emergency. Effective June 2, 1951.

HIDALGO COUNTY

Art. 1970—341. County Court at Law of Hidalgo County

Section 1. There is hereby created a Court to be held in and for Hidalgo County, Texas, which shall be known as the County Court at Law of Hidalgo County, Texas, and which shall be a court of record.

Sec. 2. Said County Court at Law of Hidalgo County, Texas, shall have and exercise jurisdiction in all matters and causes civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of Hidalgo County, Texas, would have

jurisdiction; and all cases pending in the County Court of said County, except as hereafter provided, shall be and the same are hereby transferred to the County Court at Law of Hidalgo County, and all writs and process, civil and criminal, heretofore issued by or out of the County Court of Hidalgo County except those pertaining to matters as hereafter provided to remain in the County Court of Hidalgo County, shall be and the same are hereby made returnable to the County Court at Law of Hidalgo County; and all cases pending in the District Court of the 92nd Judicial District which cases involve matters over which, by General Law, the County Court of Hidalgo County would have exclusive original jurisdiction, shall be and the same are hereby transferred to the County Court at Law of Hidalgo County, and all writs and processes heretofore issued by or out of the said District Court of the 92nd Judicial District pertaining to such cases shall be and the same are made returnable to the County Court at Law of Hidalgo County.

The jurisdiction of the County Court at Law of Hidalgo County and of the Judge thereof shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Court of Hidalgo County or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Hidalgo County as the presiding officer of said Commissioners Court as to roads, bridges, and public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding Judge thereof.

Sec. 3. The County Court at Law of Hidalgo County shall also have the general jurisdiction of a probate court within the limits of Hidalgo County, concurrent with jurisdiction of the County Court of Hidalgo County in such matters and proceedings. Such County Court at Law of Hidalgo County shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings.

As soon as may be practical but not later than one month after the effective date of this Act, there shall be transferred to the probate docket of the County Court at Law of Hidalgo County, under the direction of the County Judge and by order entered on the minutes of the County Court of Hidalgo County, such number of such probate proceedings and matters pending on the effective date of this Act in the County Court of Hidalgo County as shall be, as near as may be, one half ($\frac{1}{2}$) in number of the total of all of same then pending, and all writs and processes theretofore issued by or out of said County Court in Hidalgo County in such matters or proceedings shall be returnable to the County Court at Law of Hidalgo County as though originally issued therefrom. All such new probate matters and proceedings filed after the effective date of this Act with the County Clerk of Hidalgo County, irrespective of the Court or Judge to which the matter or proceeding is addressed shall be filed by said Clerk alternately in said respective courts in the order in which same are deposited with him for filing, beginning first with the County Court of Hidalgo County. The County Judge of Hidalgo County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Hidalgo County transfer to the County Court at Law of Hidalgo County any such probate matter or proceeding then pending in the County Court of Hidalgo County, and all processes

extant at the time of such transfer shall be returned to and filed in the County Court at Law of Hidalgo County, and shall be as valid and binding as though originally issued out of said County Court at Law of Hidalgo County.

Sec. 4. The County Court of Hidalgo County shall have and retain concurrently with the County Court at Law of Hidalgo County the general jurisdiction of a probate court and of jurisdiction now conferred or which may be conferred by law over probate matters, but shall have no other jurisdiction criminal or civil, original or appellate. The District Court of the 92nd Judicial District shall have and retain all jurisdictions conferred by Acts, 1931, Forty-second Legislature, Page 876, Chapter 370, (Article 199, Section 92, Vernon's Annotated Civil Statutes of Texas, 1925), save and except jurisdiction over all civil matters which, by general law the County Court of Hidalgo County would have exclusive original jurisdiction and said jurisdiction over all civil matters which by general law, the County Court of Hidalgo County would have exclusive original jurisdiction is hereby transferred from said District Court of the 92nd Judicial District to the County Court at Law of Hidalgo County. The County Judge of Hidalgo County shall be the Judge of the County Court of Hidalgo County and all ex-officio, executive, ministerial and administrative duties of the County Judge of Hidalgo County, as they now exist, shall continue to be exercised by the County Judge of Hidalgo County. Administrative, executive, ministerial and ex-officio duties of the County Judge shall include the duty of the County Judge to preside over and be a member of the Commissioners Court of Hidalgo County, to receive and hear applications for license as a dealer in beer or wine, to process applications to State Tuberculosis Sanatoriums, and the like; this listing of duties shall not be construed or deemed to be exclusive but is given to be illustrative only of administrative, executive, ministerial and ex-officio duties to be exercised by the County Judge of Hidalgo County, the only limitation being that he shall no longer act in any proceeding of a judicial nature save in probate matters.

Sec. 5. The terms of the County Court at Law of Hidalgo County shall be held in the County seat of Hidalgo County as follows, to wit: Beginning on the first Mondays of January, March, May, July, September and November of each year; and each term of said Court shall continue in session for eight (8) weeks. The practice in said Court, and appeals and writs of error thereto and therefrom, shall be as prescribed by the laws and rules relating to County Courts.

Sec. 6. There shall be elected in Hidalgo County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of Hidalgo County who shall be a regularly licensed attorney at law in this State, and who shall be a resident citizen of Hidalgo County, and shall have been actively engaged in the practice of law in this State for a period of not less than four (4) years next preceding such general election, who shall hold his office for two (2) years and until his successor shall have been duly elected and qualified. As soon as this Act becomes effective, the Commissioners Court of Hidalgo County shall appoint a Judge to the County Court at Law of Hidalgo County, who shall hold this office as such Judge until the next general election and until his successor is elected and qualified; any subsequent vacancies in the office of the Judge of the County Court at Law of Hidalgo County shall be filled by appointment of the Commissioners Court of Hidalgo County and when so filled, the said Judge shall hold his office until the next general election and until his successor is elected and qualified.

Sec. 7. The Judge of the County Court at Law shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law of Hidalgo County may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall be compensated in the same manner as provided for special judges of the County Courts. In probate matters, in the absence, disqualification or incapacity of the Judge of the County Court at Law of Hidalgo County, the County Judge of Hidalgo County may sit and act as Judge of the County Court at Law, and may hear and determine, either in his own courtroom or in the courtroom of the County Court at Law any matter or proceedings there pending, and enter any orders in such matters or proceedings as the Judge of the County Court at Law may enter if personally presiding therein. Likewise, in probate matters, the Judge of the County Court at Law, may, in the absence, disqualification or incapacity of the County Judge, sit and act as Judge of the County Court, and may hear and determine, either in his own courtroom or in the courtroom of the County Court, any matter or proceeding there pending and enter any orders in such matters or proceedings as the County Judge may enter if personally presiding therein. The signature of either Judge on an order shall be conclusive that all conditions have been met or complied with to qualify him to act for the other in such probate matters.

Sec. 9. The Judge of the County Court at Law of Hidalgo County may be removed from office in the same manner and for the same causes as provided by law for County Judges.

Sec. 10. The Judge of the County Court at Law shall appoint an official shorthand reporter for such Court who shall be well skilled in his profession, shall be a sworn officer of the Court and shall hold office at the pleasure of said Judge. The duties of such reporter shall be the same as provided by general law for reporters of the District Courts and such reporter shall receive such fees and compensation as is provided by Articles 2325 and 2326, Revised Civil Statutes of Texas as amended. The clerk of the Court shall tax as costs in each case, civil, criminal and probate where a record or any part thereof is made of the evidence in said case by the reporter, a stenographer's fee of Three Dollars (\$3). Said fee shall be paid as other costs in the case and paid by the clerk, when collected, into the general fund of the County.

Sec. 11. The Judge of the County Court at Law of Hidalgo County shall receive the same salary and be paid from the same fund and in the same manner as is now prescribed or may be established by law for the County Judge of Hidalgo County. The said Judge of the County Court at Law shall assess the same fees as are now or may be prescribed by law relating to County Judges' fees, all of which shall be collected by the clerk of the Court and paid to the County Treasurer on collection, no part of which shall be paid to the said Judge who shall draw the salary as above specified.

Sec. 12. The official interpreter of the District Courts of Hidalgo County shall serve as official interpreter of the County Court at Law of Hidalgo County, Texas, but if such official interpreter be not available when needed for service in said County Court at Law, the Judge of said Court is authorized to appoint an interpreter who shall serve only temporarily and who shall be paid not to exceed Five Dollars (\$5) per day out of the general fund of the County on certificate of said Judge. Upon concurrence of the County Commissioners Court, the Judge of the County Court at Law may appoint an official interpreter for such Court as provided by general law.

Sec. 13. The County Court at Law of Hidalgo County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all

writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law, and to punish for contempt under such provisions as are or may be provided by general laws governing County Courts, and said Judge shall have all other powers, duties, immunities and privileges as are or may be provided by general law for Judges of Courts of Record and for Judges of County Courts at Law, and he shall be a magistrate and a conservator of the peace.

Sec. 14. The County Clerk of Hidalgo County shall be the Clerk of the County Court at Law of Hidalgo County, and as clerk of such Court he shall have the same powers, duties, privileges and immunities as provided by law for County Clerks and the seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Hidalgo County, Texas."

Sec. 15. The sheriff of Hidalgo County shall in person or by deputy attend the said County Court at Law when required by the Judge thereof.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Hidalgo County and the Judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law and the Judge thereof; but jurors and talesmen summoned for either of said Courts may by order of the Judge of the Court in which they are summoned, be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law and the County Judge, jurors may be summoned for service in both Courts and shall be used interchangeably in both such Courts.

Jurors regularly impaneled for the week by the District Court or Courts may on request of either the County Judge or the Judge of the County Court at Law, be made available by the District Judge or Judges in such numbers as may be requested, for service for the week in either or both the County Court or the County Court at Law and such jurors shall serve in the County Court and County Court at Law the same as if they had been drawn and selected as is otherwise provided by law.

Sec. 17. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 18. 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 1951, 52nd Leg., p. 33, ch. 25.

Emergency. Effective March 17, 1951.

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER THIRTEEN—GENERAL PROVISIONS

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| <p>3. OFFICIAL COURT REPORTER</p> <p>Art.
2323a. Deputy court reporter for 70th Judicial District [New].</p> <p>2326k. Salary in counties of 600,000 or more population [New].</p> <p>2327d. Official shorthand reporters for county courts [New].</p> | <p>6. ENFORCEMENT OF SUPPORT</p> <p>[NEW]</p> <p>PART I</p> <p>Art.
2328b—1. General Provisions.</p> <p>PART II</p> <p>2328b—2. Criminal Enforcement.</p> <p>PART III</p> <p>2328b—3. Civil Enforcement.</p> <p>2333—4. Court of Domestic Relations for Lubbock County [New].</p> |
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2. RECEIVERS

Art. 2320b. Receiver for undivided mineral interest owned by absentee of unknown address

Sec. 4. Repealed. Acts 1951, 52nd Leg., p. 460, ch. 287, § 1.
 Emergency. Effective May 19, 1951.

3. OFFICIAL COURT REPORTER

Art. 2323a. Deputy court reporter for 70th Judicial District

Section 1. The official court reporter of the 70th Judicial District, composed of the counties of Midland and Ector, is hereby granted authority to appoint a deputy court reporter for the 70th Judicial District.

Sec. 2. The deputy court reporter provided for in this Act shall have the authority and perform such duties as are now required of the official court reporter of the 70th Judicial District under the direction and in the name of the official court reporter of the 70th Judicial District.

Sec. 3. No money shall ever be expended by the counties composing the 70th Judicial District and no money shall ever be expended by the State of Texas for salary or other expense of such deputy court reporter. Acts 1951, 52nd Leg., p. 314, ch. 190.

Emergency. Effective May 16, 1951.

Section 4 of the Act of 1951 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 2326k. Salary in counties of 600,000 or more population

Section 1. In all counties having a population of six hundred thousand (600,000) or more according to the last preceding Federal Census, the official shorthand reporter of each judicial district court, civil or criminal, and the official shorthand reporter of each county court at law, civil or criminal, shall receive a salary of not less than Four Thousand, Eight Hundred Dollars (\$4,800) per annum and not more than Six Thousand Dollars (\$6,000) per annum. Said salaries shall be fixed and determined annually by the County Commissioners Court, provided however that the judges of the judicial districts and the county courts at law shall annually make recommendations to the Commissioners Court as to the fixing of such salaries. Such salary shall be in addition to the transcript

fees and traveling and hotel expenses of official shorthand reporters now or hereafter provided by law. The salaries of such reporters shall be paid monthly by the Commissioners Court of the county in which the service is performed out of any funds available for the purpose, in the same manner as such salaries have heretofore been paid.

Sec. 2. This Act shall be cumulative of laws now in effect regulating the compensation of official shorthand reporters. Acts 1951, 52nd Leg., p. 688, ch. 395.

Emergency. Effective June 4, 1951.

Title of Act:

An Act to fix and regulate the compensation of official shorthand reporters in courts in counties having a population of six hundred thousand (600,000), or more according to the last preceding Federal Census; authorizing the fixing of salaries by the County Commissioners Court of

such counties, providing for recommendations by the judges of the courts, prescribing a maximum and a minimum, requiring the payment thereof by the Commissioners Court; making the Act cumulative of other laws on the subject; and declaring an emergency. Acts 1951, 52nd Leg., p. 688, ch. 395.

Art. 2327d. Official shorthand reporters for county courts

For the purpose of preserving a record of all hearings had before the County Judge of the counties of Texas, for the information of the court and parties that may be interested therein, the Judge of the County Courts of Texas, may appoint an official shorthand reporter for such court who shall be well skilled in his profession, shall be a sworn officer of the court, and shall hold office at the pleasure of the County Judge, and all provisions of the Civil Statutes of the State of Texas relating to the appointment of stenographers for district courts shall apply, in so far as applicable, to the official shorthand reporter herein authorized to be appointed by the County Judge of the County Courts of Texas, and such shorthand reporter shall receive a salary not to exceed Twelve Hundred Dollars (\$1200) annually to be paid monthly out of the County Treasury of the various counties upon order of the Commissioners Courts. Acts 1951, 52nd Leg., p. 462, ch. 290, § 1.

Emergency. Effective May 19, 1951.

Title of Act:

An Act providing for and authorizing the appointment of official shorthand reporters for the County Courts of Texas; fixing the

compensation of the reporters; authorizing the County Judge of said Counties to appoint such reporter; and declaring an emergency. Acts 1951, 52nd Leg., p. 462, ch. 290.

6. ENFORCEMENT OF SUPPORT

PART I

Art. 2328b—1. General Provisions

Purposes

Section 1. The purposes of this Act¹ are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

¹ This article and articles 2328b—2, 2328b—3.

Definitions

Sec. 2. As used in this Act¹ unless the context requires otherwise:

(1) "State" includes any state, territory or possession of the United States and the District of Columbia in which this or a substantially similar reciprocal law has been enacted;

(2) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced;

(3) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced;

(4) "Court" means the district court of this State and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law;

(5) "Law" includes both common and statute law;

(6) "Duty of support" includes any duty of support imposed or imposed by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial (legal) separation, separate maintenance or otherwise; but shall not include alimony for a former wife.

(7) "Obligor" means any person owing a duty of support;

(8) "Obligee" means any person to whom a duty of support is owed.

¹ This article and articles 2328b—2, 2328b—3.

Remedies Additional to Those Now Existing

Sec. 3. The remedies herein provided are in addition to and not in substitution for any other remedies.

Extent of Duties of Support

Sec. 4. The duty of support imposed by the laws of this State or by the laws of the state where the obligee was present when the failure to support commenced as provided in Section 7¹ and the remedies provided for enforcement thereof, including any penalty imposed thereby, bind the obligor regardless of the presence or residence of the obligee. Acts 1951, 52nd Leg., Part I, p. 643, ch. 377.

¹ Article 2328b—3.

Emergency. Effective June 2, 1951.

PART II

Art. 2328b—2. Criminal Enforcement

Interstate Rendition

Sec. 5. The Governor of this State (1) may demand from the Governor of any other state the surrender of any person found in such other state who is charged in this State with the crime of failing to provide for the support of any person in this State and (2) may surrender on demand by the Governor of any other state any person found in this State who is charged in such other state with the crime of failing to provide for the support of a person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this Section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or the other state.

Relief From the Above Provisions

Sec. 6. Any obligor contemplated by Section 5, who submits to the jurisdiction of the court of such other state and complies with the court's order of support, shall be relieved of extradition for desertion or non-support entered in the courts of this State during the period of such compliance. Acts 1951, 52nd Leg., Part II, p. 643, ch. 377.

PART III

Art. 2328b—3. Civil Enforcement

What Duties are Enforceable

Sec. 7. Duties of support enforceable under this law are those imposed or imposable under the laws of any state where the alleged obligor was present during the period for which support is sought or where the obligee was present when the failure to support commenced, at the election of the obligee, but shall not include alimony for a former wife.

Remedies of a State or Political Subdivision Thereof Furnishing Support

Sec. 8. Whenever the State or a political subdivision thereof has furnished support to an obligee it shall have the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made.

How Duties of Support are Enforced

Sec. 9. All duties of support are enforceable by petition irrespective of relationship between the obligor and obligee. Jurisdiction of all proceedings hereunder shall be vested in the district court.

Contents of Petition for Support

Sec. 10. The petition shall be verified and shall state the name and, so far as known to the plaintiff, the address and circumstances of the defendant and his dependents for whom support is sought and all other pertinent information.

Duty of Court of This State as Initiating State

Sec. 11. If the court of this State acting as an initiating State finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction of the defendant or his property, he shall so certify and shall cause certified copies of the petition, the certificate and an authenticated copy of this Act to be transmitted to the court of the responding state.

Duty of the Court of This State as Responding State

Sec. 12. When a court of this State, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall (1) docket the cause, (2) notify the District or County Attorney, (3) set a time and place for a hearing, and (4) take such action as is necessary in accordance with the laws of this State to obtain jurisdiction.

Order of Support

Sec. 13. If the court of the responding state finds a duty of support, it may order the defendant to furnish support or reimbursement therefor and subject the property of the defendant to such order.

Responding State to Transmit Copies to Initiating State

Sec. 14. The court of this State when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or for reimbursement therefor.

Additional Powers of Court

Sec. 15. In addition to the foregoing powers, the court of this State when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

(a) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant.

(b) To require the defendant to make payments at specified intervals to the district clerk or probation department or the obligee and to report personally to such clerk or probation department, at such times as may be deemed necessary.

(c) To punish the defendant who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

Additional Duties of the Court of this State When Acting as a Responding State

Sec. 16. The court of this State when acting as a responding state shall have the following duties which may be carried out through the district clerk or probation department:

(a) Upon the receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and

(b) Upon request to furnish to the court of the initiating state a certified statement of all payments made by the defendant.

Additional Duty of the Court of This State When Acting as an Initiating State

Sec. 17. The court of this State when acting as an initiating state shall have the duty which may be carried out through the district clerk or probation department of the court to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state.

Evidence of Husband and Wife

Sec. 18. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Act. Husband and wife are competent witnesses (and may be compelled) to testify to any relevant matter, including marriage and parentage.

Rules of Evidence

Sec. 19. In any hearing under this law, the court shall be bound by the same rules of evidence that bind the Juvenile Court.

Severability

Sec. 20. If any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. Acts 1951, 52nd Leg., Part III, p. 643, ch. 377.

TITLE 43—COURTS—JUVENILE

Art. 2338—1. Delinquent children; juvenile court established in each county; jurisdiction

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 jurisdictions as may be necessary to carry out the provisions of this Act.

In all counties having only one (1) district court and having a juvenile board, such board shall designate the county court or the district court to be the juvenile court for such county, and in all other counties having only one (1) district court, but no juvenile board, the county judge and the district judge of such county shall designate the county or district court of such county as the juvenile court. In counties having two (2) or more district courts or one (1) or more district courts and one (1) or more criminal district courts, and having a juvenile board, such board shall designate one (1) of such district courts or criminal district courts to be the juvenile court of such county, and in all other counties having two (2) or more district courts, or one (1) or more district courts and one (1) or more criminal district courts, the judges of such courts and the county judge of such counties shall designate one (1) of such district courts or criminal district courts as the juvenile court of such county. All such designations may be changed from time to time by such boards or such judges as are authorized herein to make the same, for the convenience of the people and the welfare of minors; provided, that there shall be at all times a juvenile court designated for each county. It is the intent of the Legislature that in selecting a court to be the juvenile court of each county, such selection be made as far as practicable so that the court designated as the juvenile court will be one which is presided over by a judge who has a sympathetic understanding of the problems of child welfare, and that changes in the designations of juvenile courts be made only when the best interests of the public require it.

Any criminal district court so designated as a juvenile court, and the judges thereof, shall have the same jurisdiction, powers, authority and duties as is now, or may be hereafter, conferred upon district courts in regard to such children.

In all counties having two (2) or more district courts, wherein a district court is designated as the juvenile court of said county, it shall give preference to cases of child delinquency, dependency, neglect, support, custody, and adoption, and to contempt proceedings growing out of or ancillary to such cases, and all other district courts in such counties may, from time to time, transfer to such district court as has been designated the juvenile court of such county, all such cases on their dockets, and may transfer to such district court as has been designated the juvenile court any or all cases of annulment or divorce which involve child custody or support, with the consent of the judge of the juvenile court.

Immediately after the designation of a juvenile court for each county, as herein provided for, the clerks of the courts of such counties shall transfer all cases of juvenile delinquency on their dockets to the docket of the juvenile court so designated, under the direction of the judges of said courts, and thereafter all cases of juvenile delinquency shall be filed in such juvenile courts.

In all counties having two (2) or more district courts, or one (1) or more district courts and one (1) or more criminal district courts, in addi-

tion to cases of juvenile delinquency, all new cases of dependency, neglect, support, child custody, and adoption, shall henceforth be filed in the juvenile court of such counties; provided, however, that nothing herein contained shall prevent the transfer of such cases to other courts having jurisdiction thereof under existing laws. The above provisions shall not be construed as requiring any divorce cases to be filed in any particular court, but same may be transferred to the juvenile court under the provisions above set forth where it appears to the judge in whose court such divorce case is pending, and the judge of the juvenile court, to be desirable to do so.

The jurisdiction, powers, and duties thus conferred upon the established courts hereunder are superadded jurisdictions, powers, and duties; it being the intention of the Legislature not to create hereby any additional offices.

Appeals from judgments of criminal district courts rendered in juvenile cases shall be taken to the proper Court of Civil Appeals. As amended Acts 1951, 52nd Leg., p. 270, ch. 156, § 1.

Emergency. Effective May 10, 1951.

Sections 2 and 3 of the amendatory Act of 1951, read as follows:

"Sec. 2. Pending the designation of juvenile courts under the provisions of this Act, all juvenile courts heretofore designated under the previous law shall continue to function with all powers and jurisdiction heretofore vested in them; it being the intention of the Legislature, however, that the new designations shall be made in each county of the State within

ninety (90) days after the effective date of this Act.

"Sec. 3. If any section, paragraph, sentence, clause, phrase or portion of this Act be held invalid or unconstitutional, such invalidity shall not affect any other section, paragraph, sentence, clause, phrase or portion of this Act, it being the intention of the Legislature to enact such valid portions distinct from other portions thereof."

Art. 2338—3. Court of Domestic Relations; Potter county

Qualifications of judge; salary; jurisdiction of court

Sec. 2. The Judge of the Court of Domestic Relations hereby established shall have such qualifications as are fixed by the Juvenile Board herein provided for, and shall be paid by the Commissioners Court of Potter County, such salary as such Juvenile Board may fix, same to be paid out of the General Fund of the County in twelve (12) equal monthly installments.

Said Court of Domestic Relations shall have jurisdiction of all cases involving adoptions, removal of disability of minority and coverture, change of name of persons, delinquent, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the district or county courts under the juvenile and child-welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings, as well as independent actions involving child custody or support; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the district or county courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said Court. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Transfer of cases

Sec. 3. The County Court of Potter County and the District Courts in Potter County may transfer to said Court of Domestic Relations any and all cases, in their respective courts in Potter County, Texas, of which cases said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

All writs and process issued by or out of a District or County Court prior to the time any case is transferred by either of said courts to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Court of record; holding court; dockets and minutes; clerk and deputies

Sec. 4. The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat in Potter County, shall have a seal and maintain all necessary dockets, records and minutes therein. The Juvenile Board of Potter County, herein provided for, shall have the power, authority and duty of appointing the Clerk of said Court who shall be paid by the Commissioners Court of Potter County such salary as such Juvenile Board shall fix, but not exceeding the maximum salary fixed by law for the District Clerk of Potter County, the same to be paid in twelve (12) equal monthly installments. Such Clerk shall be appointed in the same manner and for the same term of office as is provided in Section 6 herein for the appointment of the Judge of said Court; and, said Clerk shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for the removal of county officers. The Clerk shall have power to administer oaths and affirmations required in the discharge of the duties of the office and to take depositions of witnesses. He shall keep a fair record of all acts done, and proceedings had, in said Court, and perform generally all such duties as are or may be imposed upon him by law and such duties as are performed and required generally of district and county clerks, in so far as the same may be applicable to said office. Such Clerk shall take the same oath, and shall give the same character of bond as district clerks, said bond to be approved in the same manner as bonds of district clerks except that the amount of said bond shall be fixed by said Juvenile Board. Such Clerk may appoint one (1) or more deputies in the same manner as that authorized for district clerks, and such deputies shall have the same authority and duties, and may do and perform all such official acts as may be lawfully done and performed by such Clerk in person. The seal of said Court shall have a star of five (5) points with the words "Court of Domestic Relations, Potter County, Texas" engraved thereon. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Appointment and removal of judge; compensation; duties of board; special judge

Sec. 6. The Juvenile Board shall have the power, authority and duty of appointing, by majority vote, the Judge of said Court of Domestic Relations, whose term of office shall be for a period of two (2) years from and after his appointment and qualification, and until his successor is appointed and has qualified. Said Judge shall be subject to removal from office for the same reasons and in the same manner as is provided by the

Constitution and laws of this State for the removal of county officers. Said Judge shall receive as compensation for his services the same remuneration as is paid to the regular Judge of said Court. Said Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and cooperate with him in the administration of the affairs of said Court. In the event of the disqualification of the Judge to try a particular case, or because of the illness, inability, failure or refusal of said Judge to hold court at any time, said Juvenile Board shall select a special Judge who shall hold the court and proceed with the business thereof. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Boards and officers to furnish services

Sec. 7. It shall be the duty of all officers, agents and employees of the Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Potter County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same service and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from district courts. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Juvenile officers and investigators; reporter

Sec. 8. The Judge of the Court of Domestic Relations shall have authority to appoint such juvenile officers, juvenile probation officers and investigators as might be deemed necessary to the proper administration of its jurisdiction in Potter County, provided such appointments are approved by the Commissioners Court of such county and shall also have authority to appoint a court reporter in such cases as he shall deem it necessary to record and preserve the testimony, utilizing the services of the regular district court reporters and their assistants when possible, the salaries and compensation of such juvenile officers and court reporters to be determined and paid by the Commissioners Court of Potter County.

In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of sixteen (16) years, and in any other case involving the custody of any such child, the said Court or Judge thereof, in its or his discretion, may require any such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the Court and, if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such examination. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Injunctions and writs; contempt

Sec. 9. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by district courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Practice; number of jurors

Sec. 12. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to district courts; provided that juries shall be composed of twelve (12) members. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Prosecution and defense of cases

Sec. 13. The County Attorney of Potter County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Child Welfare Board, County Welfare Office, County Health Officer or any other welfare agency is interested. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Institution or transfer of cases

Sec. 14. All cases, complaints and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court, but said Court, and the Judge thereof, may transfer any such cases or matters to the county or district court having jurisdiction thereof under the laws of the State, with the consent of the Judge of said Court, to be tried in such court to which such transfer is made. As amended Acts 1951, 52nd Leg., p. 410, ch. 258, § 1.

Emergency. Effective May 18, 1951.

Section 2 of the amendatory Act of 1951 was substantially the same as section 15 of the Act of 1949.

Art. 2338—4. Court of Domestic Relations for Lubbock County**Creation of court; adoption of act**

Section 1. There is hereby created a Court of Domestic Relations in and for Lubbock County, Texas. It is expressly provided that the provisions of this Act shall not become effective until the Commissioners Court of Lubbock County enters an order adopting same.

Jurisdiction

Sec. 2. Said Court of Domestic Relations shall have jurisdiction of all cases involving adoptions, removal of disability of minority, change of name of persons, delinquent, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the district or county courts under the juvenile and child welfare laws of this State; and all of divorce and marriage annulment cases, including the adjustment of property rights involved therein, as well as cases of child support, alimony pending final hearing and adjustment of property rights, as well as any and all other matter incident to divorce or annulment proceedings; and all other cases of domestic relations involving justiciable controversies and differences between parents or between them and their minor children which are now, or may hereafter be, within the jurisdiction of the district or county courts in the manner provided by Articles 2337, 2338—1, Revised Civil Statutes of Texas, 1925, Acts of the Regular Session of the Forty-eighth Legislature, 1943, Chapter 240, Page 313, and Acts of the Regular Session of the Forty-ninth Legislature, 1945, Chapter 35, Page 52, and any other Article of the Civil Statutes of this State.

Eligibility of judge; term of office

Sec. 3. The Judge of the Court of Domestic Relations hereby established shall be a legally licensed attorney at law in the State. No person shall be elected or appointed judge of said court who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. The person elected such judge shall hold the office for two (2) years, and until a successor shall have been duly elected and qualified.

Appointment of judge; quarters for court

Sec. 4. As soon as this Act becomes effective, the Commissioners Court of Lubbock County shall appoint a Judge of the Domestic Relations Court in and for Lubbock County, who shall hold the office until the next General Election and until his successor shall have been duly elected and qualified, and the Commissioners Court of Lubbock County shall provide suitable quarters for the holding of said court.

Salary of judge

Sec. 5. The Judge of the Domestic Relations Court of Lubbock County shall be paid by the Commissioners Court of Lubbock County out of the general fund of Lubbock County, an annual salary which shall be fixed by the Commissioners Court of Lubbock County at not less than Seven Thousand Dollars (\$7,000) nor more than Twelve Thousand Dollars (\$12,000), to be paid in twelve (12) monthly installments.

Bond and oath of office

Sec. 6. The Judge of the Court of Domestic Relations of Lubbock County shall execute a bond and take an oath of office as required by law relating to county judges.

Transfer of cases from other courts

Sec. 7. When the Court of Domestic Relations is organized and the judge thereof shall qualify, the County Judge of Lubbock County, the Judge of the County Court at Law, and Judges of the 99th Judicial District and of the 72nd Judicial District may transfer to said Court of Domestic Relations all cases which may then be pending in their respective courts in Lubbock County, of which said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders entered by them.

Transfers to other court

Sec. 8. All cases and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said court, but the judge of said court may transfer any such cases or matters to the County or District Court having jurisdiction thereof under the law of the State, to be tried in such court in which such transfer is made, with the permission and consent of the judge thereof.

Place of sitting; dockets and minutes

Sec. 9. The said Court of Domestic Relations shall sit and hold court in Lubbock County, and shall maintain all necessary dockets and minutes therein.

Officers and boards to furnish suggestions

Sec. 10. It shall be the duty of all officers, agents and employees of the Child Welfare Board, County Welfare Office, County Health Officer,

Sheriff and Constables within Lubbock County, to furnish to said court such suggestions in the line of their respective duties as shall be required by said court.

Officers and investigators; clerk; reporter

Sec. 11. The Judge of the Court of Domestic Relations shall have authority to appoint such officers and investigators as might be necessary to the proper administration of its jurisdiction in Lubbock County, and shall also have authority to appoint a clerk of said court, and when he deems it necessary to the proper administration of such court, he may appoint a court reporter, provided such appointments are approved by the Commissioners Court of said county; the salary and compensation of such officers, clerk and court reporter to be determined and paid by the Commissioners Court of Lubbock County for the services rendered therein.

Injunctions and writs

Sec. 12. The Judge of the Court of Domestic Relations herein created shall have power to issue injunctions, temporary injunctions and restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by county and district courts when necessary in cases or matters in which said court has jurisdiction, and also power to punish for contempt.

Terms of court

Sec. 13. The first term of such Court of Domestic Relations shall begin when the judge thereof is duly selected and qualified and remain in session until the first day of the following September and its terms shall hereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Special judge

Sec. 14. A Special Judge of the Court of Domestic Relations of Lubbock County may be appointed or elected as provided by law relating to county courts and to the judge thereof, who shall receive the sum of Twenty Dollars (\$20) per day for each day he shall actually serve, to be paid out of the general fund of the county by the Commissioners Court.

Special judge in case of disqualification

Sec. 15. In the case of disqualification of the Judge of the Court of Domestic Relations of Lubbock County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try such case or cases where the Judge of the Court of Domestic Relations of Lubbock County is disqualified. In case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw the same compensation as that provided in Section 13 of this Act.

Vacancies

Sec. 16. Any vacancy in the office of the Judge of the Court of Domestic Relations of Lubbock County shall be filled by the Commissioners Court of Lubbock County and when so filled, the judge shall hold office until the next General Election and until his successor is elected and qualified.

Appeals

Sec. 17. Appeals in all civil cases from judgments and orders of said court shall be to the Court of Civil Appeals of the Seventh Supreme Judicial District as now or hereafter provided for appeals from district and county courts.

Practice and procedure

Sec. 18. The practice and procedure, rules of evidence, selection of juries, issuance of process, and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by the laws and rules pertaining to district and county courts; provided that juries shall be composed of twelve (12) members.

Partial invalidity

Sec. 19. If any section, clause, or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect and the validity of the remainder of this Act shall not be affected thereby. Acts 1951, 52nd Leg., p. 678, ch. 393.

Emergency. Effective June 4, 1951.

TITLE 44—COURTS—COMMISSIONERS

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| <p>1. COMMISSIONERS COURTS</p> <p>Art.
2350n. Allowance for travelling expenses and automobile depreciation [New].</p> <p>2. POWERS AND DUTIES</p> <p>2351a—5. Counties of 350,000; contracts with volunteer fire departments [New].</p> | <p>Art.
2351f. Counties generally; expenditures for maintenance and upkeep of public cemeteries [New].</p> <p>2372d—3. Leases and contracts for management, conduct and maintenance [New].</p> <p>2372k. Real estate subdivisions in counties of 290,000; requirements as to roads [New].</p> |
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1. COMMISSIONERS COURTS

Art. 2350. County commissioners salaries

Sec. 2b. In all counties in this State having a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, the County Commissioners shall each receive a salary of Eight Thousand, Four Hundred Dollars (\$8,400) per annum, to be paid in equal monthly installments from the same funds as such salaries are now being paid. Added Acts 1951, 52nd Leg., p. 381, ch. 243, § 1.

Emergency. Effective May 17, 1951.

Art. 2350n. Allowance for travelling expenses and automobile depreciation

Section 1. In any county in this State having a population of not more than twenty-one thousand, five hundred (21,500), according to the last preceding or any future Federal Census, the Commissioners Court is hereby authorized to allow each member of such Commissioners Court the sum of not exceeding Fifty (\$50.00) Dollars per month for traveling expenses and depreciation on his automobile while on official business within the county. Each member of such Commissioners Court shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county.

Sec. 2. In any county in this State having a population in excess of twenty-one thousand, five hundred (21,500) but not in excess of one hundred twenty-four thousand (124,000), according to the last preceding or any future Federal Census, the Commissioners Court is hereby authorized to allow each member of the Commissioners Court the sum of not exceeding Seventy-five (\$75.00) Dollars per month for traveling expenses and depreciation on his automobile while on official business within the county. Each member of such Commissioners Court shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county.

Sec. 3. In any county in this State having a population in excess of one hundred twenty-four thousand (124,000), according to the last preceding or any future Federal Census, the Commissioners Court is hereby authorized to allow each member of the Commissioners Court the sum of not exceeding One Hundred (\$100.00) Dollars per month for traveling expenses and depreciation on his automobile while on official business within the county. Each member of such Commissioners Court shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county.

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

Sec. 4. The provisions of this bill shall apply only to those counties not furnishing an automobile, truck, or by other means providing for the traveling expenses of its commissioners, while on official business within the county. Acts 1951, 52nd Leg., p. 812, ch. 456.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act authorizing the Commissioners Courts to allow each member of such Commissioners Courts certain expenses for traveling on official business in connection with the use of his automobile; requiring each member of such Commissioners Courts to pay the expense of operation and repair

of such automobile so used by him without further expense to the county; providing the provisions of this bill shall apply only to those counties not furnishing an automobile, truck, or by other means providing for the traveling expenses of its commissioners, while on official business within the county; and declaring an emergency. Acts 1951, 52nd Leg., p. 812, ch. 456.

2. POWERS AND DUTIES

Art. 2351a—5. Counties of 350,000; contracts with volunteer fire departments

In all counties having a population of three hundred and fifty thousand (350,000) inhabitants or more, according to the last preceding Federal Census, the Commissioners Court may have, and it is hereby granted, the power and authority to contract with any incorporated volunteer fire department located outside the corporate limits of any city or town within the county for the use of the fire fighting equipment and the use and service thereof by the incorporated volunteer fire department for the purpose of fighting fires outside the limits of any incorporated city or town within the county, upon such terms and conditions as may be mutually agreed upon by such Commissioners Court and the incorporated volunteer fire department, and said Commissioners Court is hereby authorized and empowered to pay out of the general fund of said county such compensation for such service as may be agreed upon, as hereinabove provided. Acts 1951, 52nd Leg., p. 371, ch. 235, § 1.

Emergency. Effective May 17, 1951.

Section 2 of the Act of 1951 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 2351f. Counties generally; expenditures for maintenance and upkeep of public cemeteries

Section 1. Commissioners Courts of the counties of this State are hereby authorized to spend moneys in the general fund for the purpose of maintenance and upkeep of public cemeteries in their respective counties.

Sec. 2. If a part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act and the Legislature hereby declares that it would have enacted, and does here now enact, such remaining portion despite any such invalidity. Acts 1951, 52nd Leg., p. 437, ch. 271.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act authorizing counties to expend

moneys for the purpose of maintenance and upkeep of the public cemeteries; and declaring an emergency. Acts 1951, 52nd Leg., p. 437, ch. 271.

Art. 2352d. Appropriations for advertising and promoting growth and development by home rule cities and counties; Board of Development

Appropriation

Section 1. All home rule cities or counties in the State of Texas may appropriate from the General Fund of said cities or counties an amount not exceeding Five Cents (5¢) on the one hundred dollars assessed valuation, for the purpose of advertising and promoting the growth and development of such city or county; providing that before the City Council or Commissioners Court of any city or county may appropriate any sums for such purpose, the qualified taxpaying voters of said city or county shall, by a majority vote at such election, authorize the City Council or the County Commissioners to thereafter appropriate not to exceed Five Cents (5¢) on the one hundred dollars assessed valuation. Provided however, that this Act shall not apply to those cities that are provided for in cities' charters. As amended Acts 1951, 52nd Leg., p. 359, ch. 224, § 1.

Emergency. Effective May 17, 1951. Section 2 of the amendatory Act of 1951, read as follows: "If any section, clause, paragraph, or sentence of this Act shall be declared unconstitutional, it is hereby declared to be the intention of the Legislature that the remainder of such Act shall remain in full force and effect."

Art. 2368a. Requirements governing advertising for bids by counties and cities

Expenditures permissible without notice or referendum

Sec. 5. The notice required in Sections 2 and 3, and the right to referendum election defined in Section 4, shall not be applicable to expenditures payable out of current funds or bond funds, as above described, nor to additional expenditures by counties unless in excess of Five Hundred (\$500.00) Dollars for each One Million (\$1,000,000.00) Dollars, or a part thereof, of taxable property in said county, according to the last approved tax rolls; provided, however, that in counties of a valuation of less than Six Million (\$6,000,000.00) Dollars, said restriction of Five Hundred (\$500.00) Dollars for each One Million (\$1,000,000.00) Dollars shall not apply, but in lieu thereof the maximum authorized warrants shall be Three Thousand (\$3,000.00) Dollars annually; said Five Hundred (\$500.00) Dollars for every One Million (\$1,000,000.00) Dollars of property shall be the maximum¹ amount of time warrants for all purposes to be issued by such county during the current calendar year; including the proposed expenditure, except in the counties of a valuation of less than Six Million (\$6,000,000.00) Dollars as above provided; and provided further that no such warrants shall ever be issued by a county in excess of One Hundred Thousand (\$100,000.00) Dollars for any one year, without the duty to give notice and the right to referendum provided in Section 3. If in excess of the maximum, the expenditure cannot be authorized until the expiration of the time for filing the petition for referendum vote has expired. The notice required and the right to referendum election defined in Sections 2, 3 and 4 shall not be applicable to expenditures payable out of the current funds or bond funds, as above described, nor to additional expenditures by cities unless in excess of Seven Thousand, Five Hundred (\$7,500.00) Dollars for cities having a population of five thousand (5,000) people, or less, as shown by the Federal Census immediately preceding; in excess of Ten Thousand (\$10,000.00) Dollars for cities having a population of more than five thousand (5,000), and less than twenty-five thousand (25,000) as shown by the Federal Census immediately preceding; in excess of Twenty-five Thousand

(\$25,000.00) Dollars for cities having a population of more than twenty-five thousand (25,000) and less than fifty thousand (50,000), as shown by the Federal Census immediately preceding, and in excess of One Hundred Thousand (\$100,000.00) Dollars for cities having a population of more than fifty thousand (50,000) as shown by the Federal Census immediately preceding. Said respective amounts above described shall be the maximum amounts of time warrants for all purposes to be issued by such cities during the current calendar year, without the duty to give notice and the right to referendum, provided in Sections 2, 3 and 4; otherwise, the expenditure cannot be authorized until the expiration of time for the filing of petition for referendum vote has expired, including the proposed expenditure.

Provided, that in case of public calamity caused by fire, flood, storm, or to protect the public health, or in case of unforeseen damage to public property, machinery or equipment, the Commissioners Court or the governing body may issue such time warrants as are necessary to provide for the immediate repair, preservation or protection of public property and the lives and health of the citizens of such county or city, irrespective of the limitations contained in this Section and the restrictions imposed by Sections 2, 3 and 4 hereof. As amended Acts 1951, 52nd Leg., p. 281, ch. 164, § 1.

¹ So in enrolled bill. Probably should be "maximum."

Improvements exempt from operation of act

Sec. 6. The provisions of Sections 2, 3 and 4 of this Act shall not apply to expenditures for, or relating to paving drainage, street widening and other public improvements, the cost of at least one-third of which is to be paid by or through special assessments levied on properties to be benefited thereby. The provisions of this Act shall not affect projects for public improvements theretofore lawfully authorized by a vote of the people, and where there may be a deficiency of funds to complete same in accordance with the plans and purposes authorized by the voters. The provisions of this Act shall not apply to bonds or warrants issued under Title 118, Revised Civil Statutes of 1925, pertaining to sea walls. As amended Acts 1951, 52nd Leg., p. 281, ch. 164, § 1.

Emergency. Effective May 11, 1951.

Section 2 of the amendatory Act of 1951 read as follows: "In every instance since the approval by the Governor of Texas on May 3, 1947, of Chapter 173, Acts of the 50th Legislature, Regular Session, 1947 (House Bill No. 82, page 283), where the Commissioners Court of a county or the governing body of a city in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city for the cost of such public works or improvements, land, materials, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all

things validated, ratified, confirmed and approved; provided, that such scrip or time warrants themselves shall not be ratified, validated, confirmed and approved by this Act unless the Commissioners Court or the governing body, as the case may be, shall have heretofore specifically and officially found and declared that such county or city has actually received the full benefit of the work performed or the land, materials, supplies, equipment or services furnished to the full extent of the amount of scrip or time warrants so authorized and issued. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work, where such Commissioners Court or governing body shall have heretofore specifically and officially found and declared that such county or city has actually received the full benefit of the work performed or the materials

and supplies furnished to the full extent of the amount of scrip or time warrants so issued, are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred thousand (300,000), according to

the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective."

Section 3 in declaring an emergency, recited that the Attorney General had ruled that sections 5 and 6 of this article were repealed by Acts 1947, 50th Leg., p. 283, ch. 173.

Art. 2370a. Expired

Under the provisions of sections 3 and 4 of Acts 1949, 51st Leg., p. 100, § 60, this article terminated Sept. 1, 1951.

Art. 2371. Rest-room for women

The Commissioners Court in each county in this State may maintain a rest room for women in the courthouse, or if for any reason a suitable rest room cannot be had in the courthouse, they may maintain a rest room at some convenient place near the courthouse. The rest room may be comfortably furnished with lounge, chairs, mirror, lavatory, tables, and such other furnishings as may be needed to make the room attractive and comfortable for women who may be in attendance on the Court or who may for other reasons be in town.

The Commissioners Court may assist the business and professional men, the various women's clubs, and other organizations in paying the salary of a matron for the rest room; providing the Commissioners Court shall appoint such matron; providing that the expense of maintaining the rest room shall not exceed One Hundred Dollars (\$100) per month, including the compensation paid by the county to the matron. As amended Acts 1951, 52nd Leg., p. 693, ch. 400, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 2372d—3. Leases and contracts for management, conduct and maintenance

Section 1. The Commissioners Court of any county of this State which has, or may hereafter provide for exhibits or the erection of buildings or improvements authorized by Acts, 1936, Forty-fourth Legislature, Third Called Session, page 2103, Chapter 507,¹ or Acts, 1949, Fifty-first Legislature, page 764, Chapter 411,² are authorized to enter into contracts with persons, firms, or corporations for complete management of, the conducting, maintenance, use, and operation of such exhibits, buildings and improvements on such terms as may be agreeable to the Court, and shall have the authority to lease such exhibits, buildings and improvements under such terms and agreements as may be satisfactory to the Commissioners Court and the lessee. The action of the Commissioners Court in making such agreements or leases shall be evidenced by order of the Commissioners Court recorded in the Minutes of the Court.

Sec. 2. The Commissioners Court shall have authority to permit the use of such exhibits, buildings or improvements for any useful public purpose which, in the opinion of the Court, will be of benefit to the county and its citizens.

Sec. 3. The Commissioners Court is authorized to determine and provide for the manner in which the net income and revenue derived from the conducting, use and operation of such exhibits, buildings, and improvements, or any projects incident thereto, shall be used and disbursed;

provided, that such income and revenue may be used solely for the management, operation, maintenance, development, improvement and promotion of such exhibits, buildings and improvements or projects and purposes for which same are authorized to be used, and for any other proper public purpose. Acts 1951, 52nd Leg., p. 78, ch. 49.

¹ Article 2372d.

² Article 2372d—2.

Emergency. Effective April 12, 1951.

Art. 2372g—1. Incapacitated employees; payment of salaries in counties of 290,000–500,000; vacation

Road law for counties of 298,000 to 400,000 not construed as repealing or conflicting with this article, see art. 6312b.

Art. 2372k. Real estate subdivisions in counties of 290,000; requirements as to roads

Section 1. (a) In all counties having a population of not less than one hundred ninety thousand (190,000), according to the last preceding or any future Federal Census, the Commissioners Courts of such counties shall have the authority to require the owner or owners of any tract of land situated outside of the boundaries of any incorporated town or city in such counties, who may hereafter divide the same in two or more parts for the purpose of laying out any subdivision of any such tract of land, or for laying out suburban lots or building lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots of any such tract of land, to provide for a right-of-way of not less than sixty (60) feet for any road or street within such subdivision.

(b) The Commissioners Courts of any such counties shall have the authority to promulgate reasonable specifications to be followed in the construction of any such roads or streets within such subdivisions, which specifications may include provisions for the construction of adequate drainage for such roads or streets.

Sec. 2. The Commissioners Courts of any such counties shall have the authority to require the owner or owners of any such tract of land which may be so subdivided to give a good and sufficient bond for the proper construction and maintenance of such roads or streets, executed by some surety company authorized to do business in this State. Such bond shall be made payable to the County Judge, or his successors in office, of the county wherein such subdivision lies, and conditioned that the owner or owners of any such tract of land to be subdivided will construct any roads or streets within such subdivision in accordance with the specifications promulgated by the Commissioners Court of such county and will maintain such roads or streets for a period of one year from the date of the approval by such Commissioners Court of any map or plat of any such subdivision. The bond shall be in such amount as may be determined by the Commissioners Court but shall not exceed a sum equal to Three (\$3.00) Dollars for each lineal foot of road or street within such subdivision.

Sec. 3. The Commissioners Courts of any such counties shall have the authority to refuse to approve and authorize any map or plat of any such subdivision unless such map or plat provides for not less than the minimum right-of-way for roads or streets as required in Section 1 (a) hereof; and there is submitted with such map or plat a bond as required by Section 2 hereof.

Sec. 4. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

Sec. 5. If any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the courts, it shall not affect the constitutionality or validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such section, subsection, paragraph, sentence, clause or provisions so declared unconstitutional. Acts 1951, 52nd Leg., p. 256, ch. 151.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 46—CREDIT ORGANIZATIONS

Art. 2465. Books and records; examinations and examiners; fees

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 who shall receive, in addition to the salary fixed and determined by the Finance Commission, 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, building and loan examiner, or loan and brokerage-credit union supervisor.

Each credit union examined shall pay an examination fee fixed by the Banking Commissioner not to exceed Thirty-two Dollars (\$32) per day per person engaged in each examination or a total fee of Three Dollars and Fifty Cents (\$3.50) per One Thousand Dollars (\$1,000) of assets or fraction thereof as reflected by the examination, whichever is lower. Such fees, together with all other fees, penalties and revenues collected by the Banking Department, shall be retained by said Department and shall be expended only for the expenses of said Department. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 5.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 47 — DEPOSITORIES

CHAPTER ONE—STATE DEPOSITORIES

Art.

2543c. Special depositories and deposits by state institutions of higher education [New].

Art. 2532. 2425. Placing deposits

State institutions of higher education, this article inapplicable to certain deposits, see art. 2543c.

Art. 2543c. Special depositories and deposits by state institutions of higher education

Section 1. The Governing Boards of the State institutions of higher education of this State are directed to designate special depository banks, subject to the approval of the State Treasurer, for the purpose of receiving and keeping certain receipts of the institutions of higher education of this State separate and apart from funds now deposited in the Treasury. The receipts here referred to are described in Section 3 of this Act. The State Treasurer is directed to deposit the receipts, or funds representing such receipts, enumerated herein, in the special depository bank or banks nearest the institution credited with the receipts, so far as is practicable, and is authorized to withdraw such funds on drafts or checks prescribed by the State Treasurer. The State Treasurer is authorized to promulgate rules and regulations to require collateral security for the protection of such funds pursuant to the provisions of Article 2529 and Article 2530 of Vernon's Texas Civil Statutes. For the purpose of facilitating the clearance and collection of the receipts herein enumerated, the State Treasurer is hereby authorized to deposit such receipts in any State Depository Bank and transfer funds representing such receipts enumerated herein to the respective special depository banks. Banks so designated as special depository banks are hereby authorized to pledge their securities to protect such funds.

Sec. 2. Nothing in this Act shall invalidate, repeal, or in anywise affect the provisions of Title 47, as amended, of the Revised Civil Statutes of 1925, usually referred to as the State Depository Law; providing, however, the limitation of deposits contained in Article 2532 of Vernon's Texas Civil Statutes shall not apply insofar as the specific funds enumerated in this Act are concerned.

Sec. 3. The Governing Boards of the State institutions of higher learning shall deposit in the State Treasury all cash receipts accruing to any college or university under its control that may be derived from all sources except auxiliary enterprises, noninstructional services, agency and restricted funds, endowment funds, student loan funds, and Constitutional College Building Amendment funds. The State Treasurer is directed to credit such receipts deposited by each such institution to a separate fund account for the institution depositing the receipts, but he shall not be required to keep separate accounts of types of funds deposited by each institution. For the purpose of facilitating the transferring of such institutional receipts to the State Treasury, each institution shall open in a local depository bank a clearing account to which it shall deposit daily all such receipts, and shall, not less often than every

five (5) days, make remittances therefrom to the State Treasurer of all except Five Hundred (\$500.00) Dollars of the total balance in said clearing account, such remittances to be in the form of checks drawn on the clearing account by the duly authorized officers of the institution, and no disbursements other than remittances to the State Treasury shall be made from such clearing account. All moneys so deposited in the State Treasury shall be paid out on warrants drawn by the Comptroller of Public Accounts, as is now provided by law.

Sec. 4. The Legislature is hereby authorized to create revolving funds for the handling of funds of institutions of higher education, as enumerated herein, by making provision in each biennial appropriation bill enacted by the Legislature. Acts 1951, 52nd Leg., p. 841, ch. 474.

Effective 90 days after June 8, 1951, date of adjournment.

Sections 5-7 of the Act of 1951, read as follows:

"Sec. 5. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict, except as herein provided in Section 2 of this Act. Article 2654d of Vernon's Texas Civil Statutes is expressly repealed only insofar as it may

conflict with the provisions of this Act.

"Sec. 6. The provisions of this Act shall become operative September 1, 1951.

"Sec. 7. If any portion of this Act is held unconstitutional by a court of competent jurisdiction, the remaining provisions hereof shall nevertheless be valid the same as if the portion or portions held unconstitutional had not been enacted by the Legislature."

TITLE 48—DESCENT AND DISTRIBUTION

Art.
2583a. Simultaneous death [New].

Art. 2583a. Simultaneous death**Disposal of property of each as if he had survived**

Section 1. When the title to property or the devolution thereof depends upon priority of death and there is no direct evidence that persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this Act.

Community property

Sec. 2. When a husband and wife have died, leaving community property and there is no direct evidence that they have died otherwise than simultaneously, one-half of all community property shall be distributed as if the husband had survived and the other one-half thereof shall be distributed as if the wife had survived, except as provided in Section 5 hereof.

Survival of beneficiaries

Sec. 3. If property is so disposed of that the right of a beneficiary to succeed to any interest therein is conditional upon his surviving another person, and there is no direct evidence that the two have died otherwise than simultaneously, the beneficiary shall be deemed not to have survived. Provided however, if any interest in property is given alternatively to one of two or more beneficiaries, with the right of each to take being dependent upon his surviving the other or others, and all shall die, and there is no direct evidence that they have died otherwise than simultaneously, the property shall be divided into as many equal portions as there are beneficiaries and those portions shall be distributed respectively to those who would have taken in the event that each beneficiary had survived.

Joint owners

Sec. 4. If any stocks, bonds, bank deposits, or other intangible property shall be so owned that one of two joint owners is entitled to the whole on the death of the other, and there is no direct evidence that the joint owners shall have died otherwise than simultaneously, these assets shall be distributed one-half as if one joint owner had survived and the other one-half as if the other joint owner had survived. If there are more than two joint owners and there is no direct evidence that all have died otherwise than simultaneously, these assets shall be divided into as many equal portions as there are joint owners and these portions shall be distributed respectively to those who would have taken in the event that each joint owner survived.

Insured and beneficiary

Sec. 5. When the insured and the beneficiary in a policy of life or accident insurance have died and there is no direct evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

Property of person dying before law takes effect

Sec. 6. This Act shall not apply to the distribution of the property of a person who has died before it takes effect.

Instruments providing different disposition

Sec. 7. When provision has been made in the case of wills, living trusts, deeds, or contracts of insurance, or any other situation, for distribution of property different from the provisions of this Act, this Act shall not apply.

Partial invalidity

Sec. 9. If any of the provisions of this Act or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are declared to be severable. Acts 1951, 52nd Leg., p. 322, ch. 196.

Effective 90 days after June 8, 1951, date of adjournment.

Section 8 of the Act of 1951 repealed inconsistent laws or parts of laws.

Title of Act:

An Act providing for the disposition of property and choses in action when there is no direct evidence that persons have died otherwise than simultaneously; pro-

viding this Act shall not apply to distribution of property of persons who have died before the effective date hereof; limiting the application of this Act; repealing all laws or parts of laws in conflict herewith; providing for severability; and declaring an emergency. Acts 1951, 52nd Leg., p. 322, ch. 196.

TITLE 49—EDUCATION—PUBLIC**CHAPTER ONE—UNIVERSITY OF TEXAS****Article 2584. The government of the University**

Workmen's compensation for employees,
see art. 8309d.

Art. 2585a. Military and naval training at University

Lamar State College of Technology, ap-
plication of this article, see art. 2637j.

Art. 2603c. Board for lease of oil and gas land

Lamar State College of Technology, ap-
plication of this article, see art. 2637j.

**Art. 2605. Repealed. Acts 1951, 52nd Leg., p. 307, ch. 184, § 1. Eff.
90 days after June 8, 1951, date of adjournment**

A preamble to the repealing Act recited
that the article was obsolete.

CHAPTER TWO—AGRICULTURAL AND MECHANICAL COLLEGE**Art. 2613. 2664–2676 Powers and duties**

10. The Board shall appoint a State Forester who shall be the Director of the Texas Forest Service and who shall be a technically trained forester of not less than two (2) years experience in professional forestry work. He shall, under the general supervision of said Board, have direction of all forest interest and all matters pertaining to forestry within the jurisdiction of this State. He shall appoint, subject to the approval and confirmation of said Board, such assistants and employees as may be necessary in executing the duties of his office and the purposes of said Board, their compensation to be fixed by said Board. He shall take such action as may be deemed necessary by said Board to prevent and extinguish forest fires; shall enforce all laws pertaining to the protection of forest and woodlands; shall prosecute for any violation of such laws; and collect data relative to forest conditions. He shall prepare for said Board annually a report on the progress and condition of State forestry work, and recommend therein plans for improving the State system of forest protection, management and replacement. He shall, upon request, under the sanction of the Board of Directors, and whenever he deems it essential to the best interest of the people of the State, cooperate with counties, towns, corporations or individuals in preparing plans for the protection, management and replacement of trees, woodlots, and timber tracts, under an agreement that the parties obtaining such assistance pay at least the field expenses of the men employed in preparing said plans. The Board of Directors may cooperate with the Federal Forest Service under such terms as may seem desirable. As amended Acts 1951, 52nd Leg., p. 330, ch. 201, § 1.

Effective 90 days after June 8, 1951, date
of adjournment.

**CHAPTER FOUR A—DENTAL COLLEGE OF THE
UNIVERSITY OF TEXAS**

**Article 2623b—1. College created; location; branch of University;
management**

Courses of study, law not applicable to
University School of Dentistry, see art.
4551e.

**CHAPTER SEVEN A—LAMAR STATE COLLEGE OF
TECHNOLOGY**

Art.
2637j. Additional powers and authority;
expenses of members of board
[New].

**Art. 2637j. Additional powers and authority; expenses of members of
board**

Section 1. The Lamar State College of Technology and the Board of Regents of said college are hereby granted all the powers and authority conferred by law to the State Teachers Colleges of Texas and the Board of Regents of said State Teachers Colleges insofar as the same may be applicable.

Sec. 2. Without in any way limiting the generalization of the provisions of Section 1 of this Act, said Lamar State College of Technology and its Board of Regents are hereby granted all powers and authority conferred by Chapter 9A, Revised Civil Statutes of Texas, as amended (relating to tuition and control of funds of State institutions of higher learning) and the following statutes of Vernon's Texas Civil Statutes: Articles 2654a (relating to tuition in State educational institutions); 2654b (relating to the exemption of certain veterans from fees); 2654b-1 (relating to exemption from fees); 2654c (relating to tuition rates in State institutions of collegiate rank); 2654c-1 (relating to building use fees, the issuance of revenue bonds, capital improvements); 2654d (relating to the control of institutional funds); 2654e (relating to exemption of certain persons from tuition fees); and 2654f (relating to exemption of State orphanages high school graduates from the payment of dues, fees and charges). Said college and its Board of Regents are hereby granted all powers and authority conferred by Article 2585a (relating to military and naval training) and Article 2603c (relating to borrowing for certain improvements, the fixing of charges and fees, the issuance of revenue bonds, and other similar provisions), Vernon's Texas Civil Statutes.

Sec. 3. The members of the Board of Regents of the Lamar State College of Technology shall serve without compensation, but shall receive actual expenses incurred in attending the meetings of said Board, or in the transaction of any business of the college imposed by said Board.

Sec. 4. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other word, phrase, clause, sentence, or part of this Act. Acts 1951, 52nd Leg., p. 68, ch. 41.

Emergency. Effective April 12, 1951.

**CHAPTER EIGHT—UNIVERSITY AND AGRICULTURAL AND
MECHANICAL COLLEGE FOR NEGROES**

Art.

2643b—1. Courses of study and degrees
[New].

2643f. Name changed to Texas Southern
University [New].

**Art. 2643b. The Texas State University for Negroes; The Prairie View
Agricultural and Mechanical College of Texas**

Name changed to Texas Southern Uni-
versity, see art. 2643f.

Art. 2643b—1. Courses of study and degrees

Section 1. The Board of Directors of the Agricultural and Mechanical College of Texas shall prescribe the courses of study and the degrees to be offered at the Prairie View Agricultural and Mechanical College. The Board of Regents of Texas Southern University shall prescribe the courses of study and degrees to be offered at the Texas Southern University. The courses of study and the degrees authorized by the governing Boards of the respective institutions named above shall conform to the provisions of Senate Bill No. 140, Acts of the 50th Legislature, 1947.¹

Sec. 2. Funds appropriated to the Prairie View Agricultural and Mechanical College and the Texas Southern University by Article V of House Bill No. 426, Acts of the 52nd Legislature, 1951,² may be expended for the purpose of conducting such courses of study as may be prescribed under the provisions of Section 1. Acts 1951, 52nd Leg., p. 752, ch. 409.

¹ Article 2643b.

² Laws 1951, ch. 499.

Effective 90 days after June 8, 1951, date
of adjournment.

Arts. 2643c-2643e

Name changed to Texas Southern Uni-
versity, see art. 2643f.

Art. 2643f. Name changed to Texas Southern University

Section 1. The name of "The Texas State University for Negroes," located at Houston, Harris County, Texas, created by Senate Bill No. 140, Chapter 29,¹ Acts of the Fiftieth Legislature, 1947, is hereby changed to Texas Southern University.

Sec. 2. All laws heretofore or hereafter enacted by the Legislature applicable or relating to this institution shall hereafter be applicable and relate to Texas Southern University.

Sec. 3. All appropriations heretofore made and now effective and all appropriations hereafter made by the Legislature for the use and benefit of "The Texas State University for Negroes" shall be available for the use and benefit of Texas Southern University.

Sec. 4. All contracts, bonds, notes or other debentures issued under the provisions of House Bill No. 545, Chapter 144,² Acts of the Fifty-first Legislature, Regular Session, 1949, or any other enactment of the Legislature, are hereby ratified, confirmed and validated for and on behalf of Texas Southern University. Acts 1951, 52nd Leg., p. 109, ch. 64.

¹ Article 2643b.

² Article 2643d.

Section 5 of the Act of 1951 provided that
this Act shall take effect and be in force
from and after June 1, 1951.

CHAPTER NINE A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

Arts. 2654a to 2654c—1

Lamar State College of Technology, application of this article, see art. 2637j.

Art. 2654d. Control of funds by governing boards

Lamar State College of Technology, application of this article, see art. 2637j. Repeal in so far as in conflict, see note to art. 2543c.

Arts. 2654e, 2654f

Lamar State College of Technology, application of this article, see art. 2637j.

CHAPTER NINE B—ADMINISTRATION OF PUBLIC FREE SCHOOLS

Art.

2654—3a. Sale or exchange of obligations held for permanent school fund [New].

Article 2654—1. Central Education Agency

Texas School for the Deaf

Sec. 4. The central education agency shall have exclusive jurisdiction and control over the State School for the Deaf; and it shall be the duty of the Commissioner of Education to appoint a superintendent for that school subject to approval of the State Board of Education. Such jurisdiction shall extend to the physical assets of said school and appropriations made for the benefit of the school shall be administered and expended by the education agency. Added Acts 1951, 52nd Leg., p. 296, ch. 175, § 1.

Emergency. Effective May 16, 1951.

Art. 2654—3a. Sale or exchange of obligations held for permanent school fund

Section 1. The State Board of Education is hereby authorized to sell or exchange any United States Treasury bonds, notes, certificates of indebtedness or other securities issued by the United States Treasury at any time held by the State Treasurer for the account of the permanent school fund; provided, however, that such obligations shall not be sold for less than the price paid for such obligations at the time of purchase; and provided further, that such obligations shall not be exchanged for other obligations having a par value less than the par value of the obligations to be exchanged.

Sec. 2. When any obligations are sold or exchanged as provided in Section 1, the State Treasurer shall make delivery of such obligations sold or exchanged in accordance with directions of the State Board of Education. Acts 1951, 52nd Leg., p. 1205, ch. 496.

Emergency. Effective June 28, 1951.

CHAPTER ELEVEN—COUNTY SCHOOLS

Art. 2688c. Counties of 28,000 population having no common school districts—Office abolished—County judge to perform duties

Sec. 2. In counties coming under the provisions of this Act, the county judge shall receive for his services in performing the duties of county superintendent of public instruction such salary as the county board of school trustees of the respective counties may provide subject to the provisions of Article 3888, Revised Civil Statutes, 1925, as amended. Such salary shall be paid in the manner and from funds as provided by law for the payment of ex-officio county superintendents. In the same manner, extent, and from the same funds, as provided in Articles 2701 and 3888, Revised Civil Statutes, 1925, as amended, the county board of school trustees in the respective counties may appoint an assistant to the ex-officio county superintendent, provide for his salary, and provide for the office and traveling expenses for the office of the ex-officio county superintendent. And the county judge, acting as county superintendent, shall perform all the duties in such counties as are now by law to be performed by county superintendents, it being the purpose of this Act to abolish, at the expiration of the term of office for which county superintendents were elected in such counties, the office of county school superintendent, and to place such duties with the county judge of such counties. As amended Acts 1951, 52nd Leg., p. 337, ch. 208, § 1.

Emergency. Effective May 17, 1951.

Section 2 of the amendatory Act of 1951, provided that this Act shall become op-

erative on the first day of the month immediately following the effective date hereof.

CHAPTER THIRTEEN—SCHOOL DISTRICTS

3. INDEPENDENT DISTRICTS IN CITIES

Art.

2774b. Board of trustees in district of 100,000 scholastics containing city of 575,000 [New].

4. TAXES AND BONDS

2786c. Proceeds; use for water, sewer or gas connections [New].

2789d. Refunding and additional bonds of independent district issuing bonds pursuant to composition in bankruptcy [New].

2802i—29. Tax rate in counties with population less than 3,250 and county-wide common school districts [New].

2802j. Assessment and collection of municipal district taxes by county assessors and collectors [New].

6. DISTRICTS IN LARGE COUNTIES

2815g—44. Improvements on leased real estate; validation of acts, taxes and bonds [New].

Art.

2815g—45. Validation of school districts and acts and orders; elections; boundaries; names [New].

2815g—46. Validation of districts; rearrangement, consolidation, etc.; addition of territory; conversion; boundaries; taxes [New].

7. JUNIOR COLLEGES

2815h—7. Validation of districts; addition or detachment of territory; names and boundary lines; elections and bonds [New].

2815o—1. Board of regents; alternative procedure [New].

8. REGIONAL COLLEGE DISTRICTS [NEW]

2815t. Creation and regulation of regional college districts.

1. COMMON SCHOOL DISTRICTS

Art. 2744e—4. County-wide independent districts in counties with scholastic population not over 2500 and not more than two districts

Board of trustees

Sec. 5. (a) When any independent school district thus has been created, the county judge shall appoint seven (7) trustees according representation to each commissioners precinct of the county by appointing from each such precinct one (1) trustee, and it shall appoint three (3) trustees from the county at large. Said board of trustees, after qualifying as now provided by law for the qualification of trustees of independent school districts, shall meet upon a date specified by the county judge within ten (10) days from the date of their appointment and qualification and shall organize in accordance with the law. Said appointed board shall serve until the first Saturday in April of the year following their appointment and qualification, on which date the qualified electors of the county shall elect seven (7) qualified persons as trustees. Each elector in the county shall be permitted to vote for one (1) board member from the commissioners precinct in which said elector and the candidate, or candidates, reside, and shall be permitted to vote for three (3) candidates from the county at large. The county judge shall call the first election for the election of trustees, and thereafter each trustee election shall be called by the board of trustees in the manner now provided by law for trustee elections in independent school districts. The commissioners court in said first election shall appoint election judges and assistants, cause to be printed and distributed ballots, receive, canvass and declare the results of such election, notify the persons thus elected of such results, and shall in addition call a meeting of the new board of trustees on a date not more than ten (10) days after the results of said election are determined and declared.

(b) In all districts heretofore created under the provisions of this Act which presently have five (5) trustees, there shall be elected at the next regular trustee election for each of such districts that number of trustees which shall make a total of seven (7) when added to the number of trustees whose regular terms of office have not expired at the time of said election; provided that said trustees whose regular terms of office have not expired at such time shall serve for the remainder of their regular terms of office, and the newly elected trustees shall serve for terms of office as follows: if the number of new trustees to be elected is four (4), then all of such new trustees shall serve for terms of two (2) years, and if the number of new trustees to be elected is five (5), then such new trustees shall draw by lot for terms of office so that the newly elected trustee drawing the number 1 shall serve for one (1) year and the newly elected trustees drawing the numbers 2, 3, 4 and 5 shall serve for two (2) years. In each year thereafter four (4) or three (3) trustees, as the case may be, shall be elected for a term of two (2) years. As amended Acts 1951, 52nd Leg., p. 363, ch. 229, § 1.

Terms of trustees; powers

Sec. 7. The trustees elected as herein provided immediately after the organization of such board shall draw for terms of office as follows: Those drawing numbers 1, 2 and 3 shall serve for one (1) year; and those drawing numbers 4, 5, 6 and 7 shall serve for two (2) years; and each year thereafter four (4) trustees or three (3) trustees, as the case may be,

shall be elected for a term of two (2) years. Such elections of trustees shall be governed by the laws of the State of Texas relating to the election of trustees in independent school districts and shall be held on the first Saturday in April of each year at the places in each commissioners precinct designated by the board of trustees. All of the rights and powers of taxation, fixing of tax rates, assessing and valuation of property for tax purposes, business management, selection of teachers, issuance of bonds, and any other rights and powers now held and exercised by boards of trustees of independent school districts not enumerated herein, are granted to and shall be exercised by the board of trustees of independent school districts created pursuant to the provisions of this law. Such boards of trustees shall have the general management and control of all schools situated or established in such districts. As amended Acts 1951, 52nd Leg., p. 363, ch. 229, § 1.

Emergency. Effective May 17, 1951.

2. INDEPENDENT DISTRICTS IN TOWN

Art. 2763. 2856 Small districts; law applicable

All incorporated districts, having fewer than one hundred and fifty (150) scholastics according to the latest scholastic census shall be governed in the general administration of their schools by the laws which apply to common school districts; and all funds of such districts shall be kept in the county depository and paid out on order of the trustees approved by the county superintendent; provided, however, that the trustees of such incorporated districts may choose, by majority vote to be shown on the minutes of the board, not to be governed in the general administration of their school by the laws which apply to common school districts and the keeping of their funds in the county depository, and upon such election such district shall be governed by laws which apply to other independent school districts. A certified copy of such minutes must be filed in the offices of the County Clerk and in the offices of the Texas Education Agency not later than September 1st. As amended Acts 1951, 52nd Leg., p. 779, ch. 431, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

3. INDEPENDENT DISTRICTS IN CITIES

Art. 2774b. Board of trustees in district of 100,000 scholastics containing city of 575,000

Number and term of trustees

Section 1. In all Independent School Districts, whether created under the General Laws or by Special Act of the Legislature, having one hundred thousand (100,000) or more scholastics according to the last scholastic census and wherein there is situated a city having a population of five hundred and seventy-five thousand (575,000) or more inhabitants according to the last Federal Census and having a board of seven (7) Trustees, the term of office of the Board of School Trustees shall be four (4) years.

Election separately for positions; official ballots

Sec. 2. All candidates for School Trustee in any such Independent School District, notwithstanding any contrary or inconsistent provisions

in any other General or Special Law, shall be voted upon and elected separately for positions on said Board of Trustees and all candidates shall be designated on the official ballots according to the number of such positions to which they seek election. Such official ballot shall have printed on it the following: "Official Ballot for the Purpose of Electing Trustees," giving the name of the School District together with the designating number of each position to be filled; with the list of candidates under the position to which they respectively seek election. The names of the candidates for each position shall be arranged by lot by the Board of Trustees of such Independent School District. No language used in any part of this Act shall be interpreted to preclude the use of mechanical devices in voting. Candidates shall be elected by plurality in accordance with the laws of this State as apply to elections generally.

Time of election and term of different positions

Sec. 3. The Trustees of such Independent School District who have been previously elected for positions Numbers 1, 2, 3 and 4 shall serve until December 31, 1952; Trustees to fill positions Numbers 1, 2, 3 and 4 shall be elected at an election to be held on the first Tuesday after the first Monday in November 1952; those Trustees who have been previously elected for positions Numbers 5, 6 and 7 shall serve until December 31, 1954; Trustees to fill positions Numbers 5, 6 and 7 shall be elected at an election to be held on the first Tuesday after the first Monday in November, 1954. Those candidates elected for the said positions shall enter upon the discharge of their duties on the first day of January next following. Thereafter the election for Trustees of the said School Districts shall be held every two (2) years on the first Tuesday after the first Monday of November.

Filing notice of candidacy; designation of position; restriction to one position

Sec. 4. Any person desiring election for a position on any such Board of Trustees shall, not less than twenty (20) days prior to the date of said election, file with the Board of Trustees ordering such election written notice announcing his or her candidacy, designating in such written notice and request to have his or her name placed on the official ballot the number of the position on such Board of Trustees for which he or she, as the case may be, desires to become a candidate, and all candidates so requesting shall have their names printed on the official ballot beneath the number of the position so designated. No person who does not so file said notice and request within the time aforesaid shall be entitled to have his or her name printed upon said official ballot to be used at any such election. No candidate shall be eligible to have his or her name placed on the official ballot under more than one (1) position to be filled at any such election.

Organization of board

Sec. 5. The said Board of Trustees shall organize by electing the officers of the Board at the first regular meeting of the said Board in January after the elections are held in November.

Vacancies

Sec. 6. If any vacancy or vacancies occur in the membership of any such Board of School Trustees, the said Board shall within thirty (30) days thereafter appoint a person to fill said vacancy until the next regular election. Should the Board for any reason fail or refuse to appoint a person to fill such vacancy, then the Board shall order an election for the purpose of filling the vacancy or vacancies, and said election shall be held in accordance with the provisions of Section 2 of this Act. Said elections

shall be held not later than sixty (60) days after creation of said vacancy. The trustee or trustees so elected to fill the vacancy or vacancies shall serve for the unexpired term and shall assume office at the first regular meeting of the Board after the election. The Board of Trustees of said District will give such notice of this special election in the manner as is required to be given for all elections for Trustees under the Special Acts creating the said Independent School District and under the provisions of this Act.

Notice and conduct of election

Sec. 7. Notice of all elections for Trustees in any such Independent School District included within the terms of this Act heretofore created by Special Acts of the Legislature shall be given in the manner and for the time required by such Special Acts, and such elections in any such Districts shall be held in the manner and in conformity with such Special Acts so creating such School Districts, except where any such Special Act may be in conflict herewith, in which event this Act shall control; and, likewise, notice of all elections for Trustees in any Independent School District included within the terms of this Act heretofore created under the General Laws shall be given in the manner and in conformity with such General Laws except where any such General Laws may be in conflict herewith, in which event this Act shall control.

Election officers; returns; canvass; certificates of election

Sec. 8. The Board of Trustees, at the time of ordering such election, shall appoint four (4) persons to hold the election at each polling place. The polling places shall be those designated for use in the General Election wherein the School District boundaries lie. The returns of such election shall be made to the Board of School Trustees in accordance with the General Election Laws. The Board of Trustees shall canvass such returns, declare the result of such election, and issue certificates of election to the person shown by such returns to be elected.

Partial invalidity

Sec. 9. If any section, sentence, clause, phrase or word of this Act is for any reason held to be invalid, the validity of the remaining portions of this Act shall not be affected thereby, it being the intent of the Legislature that no portion of this Act shall become inoperative by reason of the invalidity of any other portion. Acts 1951, 52nd Leg., p. 581, ch. 339.

Effective 90 days after June 8, 1951, date of adjournment. conflicting laws or parts of laws, both general and special.

Section 10 of the Act of 1951 repealed con-

Art. 2783c. Extended municipal school district

Definition

Section 1. The term "municipal school district" as used in this Act shall include any independent school district existing under the authority of Section 3 of Article VII of the Constitution of the State of Texas, and/or Section 10 of Article XI of the Constitution of the State of Texas, which is a municipally assumed or controlled independent school district, regardless of whether the same is a city or town constituting a separate and independent school district, the boundaries of the district and the city or town being coterminous, or whether it is an extended independent school district, the city or town having extended its limits for school purposes only under authority of Title 49 of the Revised Civil Statutes of Texas, 1925, as amended. As amended Acts 1951, 52nd Leg., p. 141, ch. 85, § 1.

Emergency. Effective April 25, 1951.

Petition for separation from municipal control; election

Sec. 2. When any municipal school district, as defined in Section 1 hereof, shall desire to have the public schools within its limits separated from municipal control so that the school corporation shall become and be an independent school district, without the dual character theretofore possessed by the school corporation and the city or town, the same shall be done in the following manner:

Whenever as many as one hundred (100) of the resident qualified voters of such municipal school district and/or city or town petition the Board of Education or board of school trustees of such municipal district, praying for an election on the proposition as to whether or not the public schools shall be divorced from municipal control, the said Board shall certify such petition to the governing body of the city or town. When such petition and the certificate of the Board of Education or trustees, has been submitted to the governing body of such city or town, it shall thereupon be the duty of such governing body to fix a date, which date shall be not more than ten (10) days from the date such petition and certificate are submitted for the holding of a joint meeting of the governing body of the city or town and the Board of Education or trustees of the municipal school district. At such joint meeting, the governing body of the city or town and the Board of Education or trustees of the municipal school district, acting jointly as one body, the mayor or chairman of the governing body presiding, shall order an election as prayed for in such petition. The election shall be held within not more than thirty (30) days nor less than ten (10) days and ten (10) days notice of said election shall be given, otherwise as nearly as possible in compliance with the law with reference to regular city elections in said city or town. Every person who has attained the age of twenty-one (21) years and who has resided within the limits of the municipal school district for the six (6) months next preceding the date of election, and is a qualified elector under the laws of this State, shall be entitled to vote at the election. As amended Acts 1951, 52nd Leg., p. 141, ch. 85, § 2.

Emergency. Effective April 25, 1951.

Declaration of result of election

Sec. 4. If a majority of the qualified voters, voting at the election in such municipal school district, shall vote in favor of the separation of the public schools from municipal control, the governing body of such city or town shall immediately canvass the returns and certify the result of such election to the Board of Education or Board of Trustees of such municipal school district, together with a certified copy of the record showing all the proceedings in respect of such election. If such Board of Education or Board of Trustees finds that such election has been in all respects lawfully held and the returns thereof duly and legally made to the governing body of such city or town, then it shall by resolution duly passed and entered of record, declare that the public schools of the municipal school district have been separated from municipal control, and that the corporate name of the school district shall thereafter be "_____ Independent School District," inserting the name of such city or town. If the proposition shall be defeated at such election, then no election for that purpose shall be ordered until after the expiration of one year from the date of such election. As amended Acts 1951, 52nd Leg., p. 141, ch. 85, § 3.

Emergency. Effective April 25, 1951.

Powers conferred on district

Sec. 5. Except as herein denied or limited, all the powers conferred upon independent school districts by the Constitution and laws of the State of Texas, including the right to assess, levy and collect taxes and issue bonds for school purposes, as provided by general law, are hereby conferred upon any independent school district separated from municipal control under the provisions of this Act; provided that nothing herein shall be construed as abrogating or in any manner repealing or affecting any maintenance tax and/or bond taxes heretofore voted, authorized and/or levied on taxable properties situated within the limits of the municipal school district. As amended Acts 1951, 52nd Leg., p. 141, ch. 85, § 4.

Emergency. Effective April 25, 1951.

Trustees; number; terms

Sec. 6. The Board of Trustees of such independent school district after separation from municipal control, shall consist of seven (7) members. The members of the Board of Trustees of such municipal school district shall continue as members of the Board until the terms for which they have been elected or appointed, as the case may be, shall have expired, or until their successors have been elected and qualified; provided that in any district where the Board of Trustees was composed of fewer than seven (7) members in such municipal school district, after divorce-ment from municipal control the number necessary to cause the Board to consist of seven (7) members shall be appointed by the members already serving as trustees, such appointees to serve in accordance with the general law governing the election and tenure of office of independent school district trustees. Provided further that an election shall be held on the first Saturday in April of each year, at which election either two (2) trustees or three (3) trustees, as the case may be, shall be elected to serve for a term of three (3) years. In the case of a vacancy on said Board caused by any reason, said vacancy shall be filled for the unexpired term by appointment on the part of the remaining members of said Board of Trustees. As amended Acts 1951, 52nd Leg., p. 141, ch. 85, § 5.

Emergency. Effective April 25, 1951.

Property rights of district

Sec. 8. The title and rights to all property owned, held, set apart or in any way dedicated to the use of the public schools of the city or town, and/or heretofore vested in such city or town and/or the mayor, chairman of the commission, city council, city commission or board of school trustees of such city or town, prior to separation from municipal control as herein authorized and provided, shall be and are hereby vested in the Board of Education or Board of Trustees of such independent school district, after separation from municipal control, and shall be managed and controlled by the Board of Education or Board of Trustees thereof, as is now or may hereafter be provided by law. As amended Acts 1951, 52nd Leg., p. 141, ch. 85, § 6.

Emergency. Effective April 25, 1951.

Section 7 of the amendatory Act of 1951 provided that if any portion of the Act was held unconstitutional the remaining

provisions should nevertheless be valid. Section 8 repealed conflicting laws or parts of laws.

4. TAXES AND BONDS

Art. 2786c. Proceeds; use for water, sewer or gas connections

Section 1. Whenever bonds are hereafter voted and issued by school districts for the statutory purpose of purchase, construction, repair and equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, the bond proceeds may be used, among other things, to pay the cost of acquiring, laying, and installing pipes or lines to connect with the water, sewer, or gas lines of an incorporated city or town, including Home Rule Cities, or other municipal corporation, or private utility company (whether or not the water, sewer, or gas lines of such city, town, or other municipal corporation adjoin the school site or sites), so that the school district may afford its public free school buildings of the water, sewer, or gas services offered by such city, town, or other municipal corporation, or private utility company. Acts 1951, 52nd Leg., p. 75, ch. 47.

Emergency. Effective April 12, 1951.

Art. 2789d. Refunding and additional bonds of independent district issuing bonds pursuant to composition in bankruptcy

Section 1. This Act shall be applicable to any Independent School District which has outstanding refunding bonds issued pursuant to a plan of composition confirmed by a United States District Court under the National Bankruptcy Laws (hereinafter called "Term Bonds"), all of which refunding bonds mature on the same date and bear interest at different or graduated rates during the term of such bonds.

Sec. 2. Any such District is hereby authorized to issue refunding bonds (hereinafter called "Serial Refunding Bonds") having serial maturities and a rate or rates of interest not exceeding three and one-half (3½%) per cent per annum, for the purpose of refunding such outstanding term bonds, in the manner provided by law for the issuance of school district refunding bonds.

Sec. 3. In lieu of exchanging the serial refunding bonds for the term bonds in the manner otherwise provided by law, the District may, at any time after calling the outstanding term bonds for redemption in the manner provided in said bonds, sell the serial refunding bonds (or the unexchanged portion of them) at not less than par and accrued interest and deposit the principal amount received from such sale together with the additional amount necessary to pay the interest to the call date, with the bank where the term bonds are payable, in which event, a certified copy of the resolution so providing shall be transmitted to the Comptroller of Public Accounts and he shall register them without cancellation of the bonds to be refunded and deliver them as provided in said resolution.

Sec. 4. When such serial refunding bonds shall have been authorized by resolution of the Board of Trustees, signed by the President and Secretary of said Board, approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, they shall constitute valid and binding obligations of such District, payable from the same rate of tax which the District was authorized to levy for the payment of the bonds being refunded.

Sec. 5. Any District to which this Act is applicable, after providing for the refunding of its outstanding term bonds, may on or after being authorized to do so by an election as provided by other laws relating to Independent School Districts, issue bonds for the construction,

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

improvement, repair and equipment of schoolhouses, and the purchase of the necessary sites; and for the purpose of paying such bonds and the interest thereon, the District shall have power to levy a tax at a rate not to exceed seventy-five (75¢) cents on the One Hundred (\$100.00) Dollars of assessed valuation of taxable property.

It is provided, however, that no such bonds provided for in this section may be issued in an amount that will increase the principal of bonded indebtedness, or create a principal of bonded indebtedness, of such District, payable through taxation, to such total amount as that a tax of seventy-five (75¢) cents on the One Hundred (\$100.00) Dollars of assessed valuation of taxable property, based on the latest approved tax rolls, will not pay current principal and interest as it is scheduled to mature. Acts 1951, 52nd Leg., p. 565, ch. 330.

Emergency. Effective June 2, 1951.

Art. 2802e—1. Construction and mortgaging of gymnasia, stadia, etc., by districts authorized; self-liquidating; proceedings validated

Buildings; mortgages; bonds; franchise to foreclosure purchaser; obligation no debt

Section 1. All independent school districts or common school districts and all cities, which have assumed the control of the public schools situated therein, shall have the power to build or purchase buildings and grounds located within or without the district or city, for the purpose of constructing gymnasia, stadia, or other recreational facilities, and to mortgage and encumber the same, and the income, tolls, fees, rents, and other revenues therefrom, and everything pertaining thereto, acquired or to be acquired, and to evidence the obligation therefor by the issuance of bonds to secure the payment of funds to purchase or to construct the same, including the purchase of equipment and appliances for use therein and as additional security therefor by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereof a franchise to operate said properties so purchased for a term of not more than ten (10) years after such purchase. No such obligation shall ever be a debt of any such school district or city, but solely a charge upon the property so encumbered, and shall never be reckoned in determining the power of any such school district, or city, to issue bonds for any other purpose authorized by law; provided that no election for the issuance of bonds herein authorized shall be necessary, but the same may be authorized by a majority vote of the board of trustees of such independent school district or common school district or governing body of such city.

Additions to buildings; mortgages; bonds; franchise to foreclosure purchaser; obligation no debt

Sec. 2. All independent school districts or common school districts and all cities which have assumed the control of the public schools situated therein, shall have the power to build additions to existing gymnasia, stadia, or other recreational facilities owned by the same, and to purchase additional buildings and grounds for the purpose of constructing additions to existing gymnasia, stadia, and other recreational facilities, and to mortgage and encumber said original stadia, gymnasia, and other recreational facilities, together with the additional buildings and grounds and additions to existing gymnasia, stadia, and other recreational facilities, and the income, tolls, fees, rents, and other charges thereof, and everything pertaining thereto acquired or to be acquired, and to evidence the obligation therefor by the issuance of bonds to secure the payment

of funds to purchase the same, including the purchase therefor by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereof a franchise to operate said properties so purchased for a term of not more than ten (10) years after such purchase. No such obligation shall ever be a debt of any such school district and/or city, but solely a charge upon the property so encumbered, and shall never be reckoned in determining the power of any such school district or city, to issue bonds for any other purpose authorized by law; provided that no election for the issuance of the bonds herein authorized shall be necessary, but the same may be authorized by a majority vote of the boards of trustees of such independent school district or common school district or the governing body of such city.

Projects self-liquidating

Sec. 3. Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charges other than taxation.

Bonds provided for in Section 1 payable from revenue

Sec. 4. Such bonds provided for in Section 1 shall be payable from the net revenues of the project together with all future extensions or additions thereto or replacements thereof, and the governing body of such school district, or city, shall provide in the ordinance or resolution authorizing the bonds, that the cost of maintaining and operating the project shall be a first charge against such revenue, the maintenance and operating expenses to include only such items as are set forth in said ordinance or resolution. After the payment of such maintenance and operating expenses a sufficient amount of the revenue remaining shall be set aside in a fund known as the Gymnasium or Stadium Bond Interest and Redemption Fund to provide for the payment of principal of and interest upon such bonds plus a reasonable amount as a margin for safety. Such fund shall be used for no other purpose than to pay the principal of and interest on said bonds. Any revenues remaining after making the payments hereinabove provided for may be used for any lawful purpose.

Bonds provided for in Section 2 payable from revenue

Sec. 5. Such bonds provided for in Section 2 shall be payable from the net revenues of the entire project, including the original existing gymnasias, stadia, and other recreational facilities, and the additional buildings and grounds and additions to the existing gymnasias, stadia, and other recreational facilities, together with all future extensions or additions thereto or replacements thereof and the governing body of such city or school district shall provide in the ordinance or resolution authorizing the bonds, that the cost of maintaining and operating the project shall be a first charge against such revenues, the maintenance and operating expenses to include only such items as are set forth in said ordinance or resolution. After the payment of such maintenance and operating expenses, a sufficient amount of the revenue remaining shall be set aside in a fund known as the Gymnasium or Stadium Bond Interest and Redemption Fund to provide for the payment of principal of and interest upon such bonds, plus a reasonable amount as a margin of safety. Such funds shall be used for no other purpose than to pay the principal of and interest on said bonds. Any revenues remaining after making the payments hereinabove provided for may be used for any lawful purpose.

Required clause

Sec. 6. Every bond issued or executed under this law shall contain the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Such bonds shall be presented to the Attorney General for his approval as is provided for the approval of other school bonds and in such cases the bonds shall be registered by the State Comptroller as in the case of other school bonds.

Period for issuance of bonds

Sec. 7. No bonds authorized to be issued or executed under this Act shall be issued or executed after the expiration of two (2) years from the effective date of this Act.

Land not subject to payment of indebtedness

Sec. 8. No land upon which is situated any of the school improvements other than as described herein shall ever be subject to the payment of any indebtedness created hereunder, nor shall any encumbrance ever be executed thereon.

Validation of acts, proceedings and contracts

Sec. 9. All acts performed, proceedings had and contracts executed by school districts to which this Act is applicable, and by the governing bodies thereof, which acts, proceedings and contracts were unauthorized by law at the time of their performance or execution, but which would have been authorized under the terms of this Act had the same been in force at such time, are hereby validated, ratified, approved and confirmed in all respects as fully as though they had been duly and legally performed, had and executed in the first instance. As amended Acts 1951, 52nd Leg., p. 747, ch. 405.

Emergency. Effective June 12, 1951.

Art. 2802i—29. Tax rate in counties with population less than 3,250 and county-wide common school districts

Section 1. Any common school district in counties having a population of less than three thousand, two hundred fifty (3,250) inhabitants, according to the last preceding Federal Census, or in those common school districts the boundaries of which are co-extensive with the boundaries of the counties in which such districts are located, which now levies a total tax of One Dollar and Fifty Cents (\$1.50) per hundred dollars assessed valuation of taxable property for maintenance purposes and bond and interest sinking fund purposes, may levy, assess, and collect taxes at not to exceed the following rates per hundred dollars assessed valuation of taxable property, to-wit:

For maintenance purposes, One Dollar and Seventy-five Cents (\$1.75) per hundred dollars of assessed valuation; for bond interest and sinking fund purposes, seventy-five cents (75¢) per hundred dollars of assessed valuation; but the combined tax for both purposes shall never exceed One Dollar and Seventy-five Cents (\$1.75) per hundred dollars of assessed valuation. Such taxes shall be assessed, levied, and collected pursuant to the provisions hereof and of the general law applicable to such districts.

Sec. 2. Before levying any tax in excess of One Dollar and Fifty Cents (\$1.50) on the hundred dollars of assessed valuation as hereby au-

thorized, the Commissioners Court of said county shall order and hold an election within such district for the purpose of determining whether a majority of the voters voting there desire to authorize the Commissioners Court to levy such tax. At such election only qualified voters who are property taxpayers of such district shall be entitled to vote. The election order and notice of election shall in all cases either state the specific rate of tax to be voted upon, or that the rate shall not exceed the limit herein specified. Notice of election shall be given for the length of time and in the manner prescribed by law for elections for trustees of common school districts, and such election shall be conducted in accordance with the General Law so far as applicable thereto. The ballots for such maintenance tax election shall have written or printed thereon the words "For the School Tax" and "Against the School Tax." If said maintenance tax proposition is defeated by a majority of the voters at an election held for such purpose, no other election shall be held upon such proposition for one year after the date of said election.

Sec. 3. If any section, paragraph, or provision of this Act be declared unconstitutional or invalid for any purpose, such holding shall not in any manner affect the remaining sections, paragraphs, or provisions of this Act, but the same shall remain in full force and effect. Acts 1951, 52nd Leg., p. 426, ch. 266.

Emergency. Effective May 19, 1951.

Section 4 of the Act of 1951 repealed conflicting laws and parts of laws to the extent of the conflict.

Art. 2802j. Assessment and collection of municipal district taxes by county assessors and collectors

Authority to contract

Section 1. The Board of School Trustees in municipal school districts be authorized to contract with county tax assessors and county tax collectors for assessing and collecting school taxes for said districts on property located within the county of said assessors and collectors, including the property subject to such school taxes located in municipalities of said county or counties.

Fee

Sec. 2. The maximum fee to be paid county tax assessors and collectors for assessing and collecting school taxes as is provided for herein shall be one per cent (1%) for assessing and one per cent (1%) for collecting.

Resolution

Sec. 3. When the Board of School Trustees of a municipal school district desires to have the school taxes of the district assessed and collected by the assessors and collectors of a county or counties in which said municipal school district is located, that said Board shall be required to pass a resolution on or before August 1st of each year, authorizing said assessor and collector to perform this taxing function for said district, and setting forth the rate of taxation for bonds and for local maintenance in said school district.

Duty of assessor and collector; reports

Sec. 4. When such a resolution is passed by a School Board of a municipal school district and presented to the county assessor and collector of taxes, it shall become his duty to perform this function for said school district, and that said county tax collector shall make monthly

reports of all taxes collected to the depository of school funds for said municipal school district and make such other reports as are now required when said collector collects the taxes for independent and common school districts. Acts 1951, 52nd Leg., p. 6, ch. 6.

Emergency. Effective Feb. 20, 1951.

5. ADDITIONS AND CONSOLIDATIONS

Art. 2815—2. Repealed. Acts 1951, 52nd Leg., p. 631, ch. 372, § 1. Eff. June 2, 1951.

6. DISTRICTS IN LARGE COUNTIES

Art. 2815g—1a. Preceding sections to counties having more than 250,000 population

Provided further that in all counties having more than two hundred fifty thousand (250,000) population according to the last preceding Federal Census, the provisions of the foregoing Articles, 2815a, 2815b, 2815c, 2815d, 2815e, 2815f, 2815g, and 2815g—1, shall not apply, and the provisions of said Articles shall be without force and effect.

In all said counties having more than two hundred fifty thousand (250,000) population according to the last preceding Federal Census, the members of the County Board of School Trustees of the public schools of the county may receive Five (\$5.00) Dollars per day for their services in attending meetings, inspecting schools, and performing the duties imposed upon them by law, to be paid out of the General Fund of the county by warrants drawn on order of the Commissioners Court after approval of the account by the County Superintendent. As amended Acts 1951, 52nd Leg., p. 580, ch. 338, § 1.

Emergency. Effective June 2, 1951.

Art. 2815g—44. Improvements on leased real estate; validation of acts, taxes and bonds

Section 1. The actions of the governing bodies of school districts in heretofore constructing improvements for such districts on real estate leased to such school districts are hereby in all things validated, and all tax or revenue bonds heretofore issued or authorized by school districts to construct improvements on real estate leased to such districts are hereby in all things validated. All proceedings heretofore had relating to the issuance of tax or revenue bonds to be issued for the construction of improvements for the school districts on leased real estate are hereby in all things validated, and such bonds, after approval by the Attorney General, registration by the Comptroller, and delivery to the purchasers, shall be held to be incontestable. All such leases are hereby in all things validated regardless of whether or not the lessor is an individual, partnership, private corporation, municipal corporation, political subdivision of the State, or otherwise. All school districts which prior to the effective date of this Act have entered into leases whereby real estate has been leased to such school districts, may, with respect to the purchase, construction, repair or equipment of improvements on such leased real estate, issue bonds, either tax or revenue, for the purposes provided by the general laws relating to school districts, the issuance of said bonds to be in accordance with the provisions of said general laws; provided, however, that any bonds so issued shall mature prior to the termination or expiration date of the lease.

Sec. 2. This law shall not apply to any school district the organization or bonds or leases of which are now involved in litigation in any District Court of this State, the Court of Civil Appeals, or the Supreme Court of Texas.

Sec. 3. If any word, phrase, clause, sentence, or part of this Act shall be held by any Court of competent jurisdiction to be invalid, or unconstitutional, it shall not affect any other word, phrase, clause, sentence, or part of this Act. Acts 1951, 52nd Leg., p. 46, ch. 29.

Emergency. Effective March 19, 1951.

Art. 2815g—45. Validation of school districts and acts and orders; elections; boundaries; names

Section 1. All school districts, including any independent school district controlled by a municipality and including common school districts, independent school districts, junior college districts, consolidated common school districts, consolidated independent school districts, rural high school districts, all county line school districts, including county line common school districts, county line independent school districts, county line rural high school districts, county line consolidated common school districts, county line consolidated independent school districts, and all other school districts, groups or annexations of whole districts, or parts of districts, whether established, organized, and/or created by vote of the people residing in such districts, or by action of the governing body of any such municipalities, or by action of the county school boards, or by action of the county judge, or by action of the commissioners courts, and whether created by general or special law in this State, 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 county boards of trustees of any and all counties in rearranging, consolidating, grouping, annexing, changing, detaching and attaching of territory, or subdividing any and all such school districts, or increasing or decreasing the area thereof, or abolishing school districts, in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, and all acts of the governing bodies of any such municipalities in annexing territories to such municipally controlled school districts, are hereby in all things validated.

All acts and orders of the county board of trustees of any and all counties in adding territory to any junior college district, which said college was originally created with the same boundary lines as an independent school district and to which independent school district territory has been added, such added territory to such college district being the same that was added to said independent school district and making the boundary lines of such districts identical, are hereby in all things validated, regardless whether such order or orders of the county board were enacted at the time of the addition of territory to the independent school district or subsequent thereto, and whether such orders were entered nunc pro tunc or otherwise. All elections for bonds, the levy and collection of taxes, and/or debt assumption ordered by the governing body of such junior college district and held over the entire enlarged or extended area, in which election a majority of the qualified voters owning taxable property within such junior college district as enlarged or extended and having duly rendered the same for taxation, are hereby in all things validated, and said governing body is hereby authorized to issue such bonds and

levy such taxes, and the indebtedness so assumed is hereby declared to be the indebtedness of such enlarged junior college district.

All consolidations, or attempts at consolidation, of school districts after an election was held and a majority of the legally qualified voters in each such district voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include, among others, such attempted consolidations where the election proceedings call for the consolidation of one or more common school districts and/or one or more independent school districts with an independent school district, but did not provide for the consolidation of each such common school district and/or independent school district with each other such district.

All acts of the county judges, and/or the commissioners courts, and/or the county boards of school trustees in converting or changing one type of school district into another type of school district, are hereby in all things validated, and all elections called by such officers for such conversion or change, in which election a majority of the qualified voters voting therein voted in favor thereof, are hereby in all things validated, and all such converted or changed school districts are hereby in all things validated as though they had been legally established in the first instance.

All acts of the governing bodies of municipalities and/or of the boards of trustees of municipally controlled or assumed school districts and/or cities and towns constituting separate and independent school districts and/or extended municipal school districts, in ordering elections for the separation or divorcement of such schools and/or districts from municipal control, jurisdiction or authority, in which elections a majority of the qualified voters voting therein voted in favor of such separation or divorcement, are hereby in all things validated, and the school districts formed by such separation or divorcement are hereby in all things validated, and the organization and acts of the boards of trustees of any and all such districts are hereby in all things validated.

The boundary lines of any and all such school districts are hereby in all things validated. The names of any and all such school districts are hereby in all things validated.

All acts of the boards of trustees in such school districts or the governing bodies of such municipalities or the county judges or the commissioners courts 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 districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all tax elections, bond elections, and bond assumption elections following such consolidation, annexation, grouping, attachment or detachment, conversion, change, etc., are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or school district or municipality 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 or the county judge or the commissioners court or the governing body of any such municipality in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such districts, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so voted or issued by such district. All revenue bonds issued and outstanding, and all revenue bonds authorized but not yet issued for and on behalf of school districts

and all proceedings relating thereto are hereby in all things validated. All acts of the boards of trustees of school districts or the governing bodies of municipalities or the county judges or the commissioners courts in entering into leases of real estate or other property to such school districts and all such leases are hereby in all things validated; and all tax or revenue bonds issued or authorized to be issued to construct, erect or purchase improvements for such school districts on such leased real estate 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, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the district or by any election of the tax-paying voters of said districts or by any Act whether general or special by the Legislature, or 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 in any district court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or the consolidation or annexation of territory in or to such district is attacked, or to any district involved in proceedings now pending before the County Boards of Education, State Commissioner of Education or before the State Board of Education in which proceedings the validity of the organization or creation of such district or the consolidation or annexation of territory in or to such district is attacked. Provided further, that this Act shall not apply to any district which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established 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, or unconstitutional, or for other reasons, it shall not affect any other phrase, word, clause, sentence, paragraph, section, or part of this Act. Acts 1951, 52nd Leg., p. 119, ch. 74.

Emergency. Effective April 23, 1951.

Art. 2815g—46. Validation of districts; rearrangement, consolidation, etc.; addition of territory; conversion; boundaries; taxes

Section 1. All school districts, including any independent school district controlled by a municipality and including common school districts, independent school districts, junior college districts, consolidated common school districts, consolidated independent school districts, rural high school districts, all county line school districts, including county line common school districts, county line independent school districts, county line rural high school districts, county line consolidated common school districts, county line consolidated independent school districts, and all other school districts, groups or annexations of whole districts, or parts of districts, whether established, organized, and/or created by vote of the people residing in such districts, or by action of the governing body of any such municipalities, or by action of the county school boards, or by action of the county judge, or by action of the commissioners courts, and whether created by general or special law in this State, 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 county boards of trustees of any and all counties in rearranging, consolidating, grouping, annexing, changing, detaching and attaching of territory, or subdividing any and all such school districts, or increasing or decreasing the area thereof, or abolishing school districts, in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, and all acts of the governing bodies of any such municipalities in annexing territories to such municipally controlled school districts, are hereby in all things validated.

All acts and orders of the county board of trustees of any and all counties in adding territory to any junior college district, which said college was originally created with the same boundary lines as an independent school district and to which independent school district territory has been added, such added territory to such college district being the same that was added to said independent school district and making the boundary lines of such districts identical, are hereby in all things validated, regardless whether such order or orders of the county board were enacted at the time of the addition of territory to the independent school district or subsequent thereto, and whether such orders were entered nunc pro tunc or otherwise. All elections for bonds, the levy and collection of taxes, and/or debt assumption ordered by the governing body of such junior college district and held over the entire enlarged or extended area, in which election a majority of the qualified voters owning taxable property within such junior college district as enlarged or extended and having duly rendered the same for taxation, are hereby in all things validated, and said governing body is hereby authorized to issue such bonds and levy such taxes, and the indebtedness so assumed is hereby declared to be the indebtedness of such enlarged junior college district.

All consolidations, or attempts at consolidation, of school districts after an election was held and a majority of the legally qualified voters in each such district voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include, among others, such attempted consolidations where the election proceedings call for the consolidation of one or more common school districts and/or one or more independent school districts with an independent school district, but did not provide for the consolidation of each such common school district and/or independent school district with each other such district.

All acts of the county judges, and/or the commissioners courts, and/or the county boards of school trustees in converting or changing one type of school district into another type of school district, are hereby in all things validated, and all elections called by such officers for such conversion or change, in which election a majority of the qualified voters voting therein voted in favor thereof, are hereby in all things validated, and all such converted or changed school districts are hereby in all things validated as though they had been legally established in the first instance.

All acts of the governing bodies of municipalities and/or of the boards of trustees of municipally controlled or assumed school districts and/or cities and towns constituting separate and independent school districts and/or extended municipal school districts, in ordering elections for the separation or divorcement of such schools and/or districts from municipal control, jurisdiction or authority, in which elections a majority of the qualified voters voting therein voted in favor of such separation or divorcement, are hereby in all things validated, and the school districts formed by such separation or divorcement are hereby in all things vali-

dated, and the organization and acts of the boards of trustees of any and all such districts are hereby in all things validated.

The boundary lines of any and all such school districts are hereby in all things validated. The names of any and all such school districts are hereby in all things validated.

All acts of the boards of trustees in such school districts or the governing bodies of such municipalities or the county judges or the commissioners courts 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 districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all tax elections, bond elections, and bond assumption elections following such consolidation, annexation, grouping, attachment or detachment, conversion, change, etc., are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or school district or municipality 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 or the county judge or the commissioners court or the governing body of any such municipality in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such districts, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so voted or issued by such district. All revenue bonds issued and outstanding, and all revenue bonds authorized but not yet issued for and on behalf of school districts and all proceedings relating thereto are hereby in all things validated. All acts of the boards of trustees of school districts or the governing bodies of municipalities or the county judges or the commissioners courts in entering into leases of real estate or other property to such school districts and all such leases are hereby in all things validated; and all tax or revenue bonds issued or authorized to be issued to construct, erect or purchase improvements for such school districts on such leased real estate 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, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the district or by any election of the tax-paying voters of said districts or by any Act whether general or special by the Legislature, or 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 in any district court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or the consolidation or annexation of territory in or to such district is attacked, or to any district involved in proceedings now pending before the County Boards of Education, the State Commissioner of Education, or the State Board of Education in which proceedings the validity of the organization or creation of such district or consolidation or annexation of territory in or to such district is attacked. Provided further, that this Act shall not apply to any district which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established and which was later returned to its original status. Provided further, that this Act shall not be construed as authorizing in the future the levy of taxes in excess of the limitations established by the Legislature for

school districts by general law, or as validating any tax election or elections or bond election or elections which have heretofore been held to be invalid by any court of competent jurisdiction in this State.

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, or unconstitutional, or for other reasons, it shall not affect any other phrase, word, clause, sentence, paragraph, section, or part of this Act. Acts 1951, 52nd Leg., p. 1488, ch. 504.

Emergency. Effective June 28, 1951.

7. JUNIOR COLLEGES

Art. 2815h. Junior College Districts

Time taxes due and payable; when delinquent

Sec. 7a(1). The Board of Education or the Board of Trustees, as the case may be, of any Junior College District whose boundaries are not coterminous with an independent school district may by the passage of a resolution by a majority vote of the members of said Board of Education or Board of Trustees provide that the taxes levied by said District shall become due and payable annually on the first day of September and that such taxes shall become delinquent unless paid on or before the thirty-first day of October. Such delinquent taxes shall be subject to the same penalty and interest as provided in Section 7a hereof.

That until and unless the Board of Education or Board of Trustees of any such Junior College District shall pass the resolution provided for herein, then the taxes of such District shall be collected as provided for in Section 7a. Added Acts 1951, 52nd Leg., p. 863, ch. 487, § 1.

Emergency. Effective June 21, 1951.

Section 2 of the amendatory Act of 1951 repealed conflicting laws or parts of laws, both general and special, to the extent of the conflict. Section 3 read as follows: "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 va-

lidity 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 one or more of the sections, subsections, sentences, clauses, or phrases should be declared to be unconstitutional or invalid."

Art. 2815h—7. Validation of districts; addition or detachment of territory; names and boundary lines; elections and bonds

Section 1. All junior college districts, whether established, organized and/or created, or attempted to be established, organized and/or created by vote of the people residing in such districts, or by action of the county school boards, or by action of the county judge, or by action of the commissioners courts, or by action of State educational officers or agencies, or by a combination of any two or more of the same, which districts have heretofore been recognized by either State or county authorities as junior college districts, are hereby validated in all respects as though they had been duly and legally established in the first instance.

Sec. 2. Without in any way limiting the generalization of the provisions of Section 1, all additions of territory to or detachments of territory from such junior college districts are hereby in all things validated, whether the same were accomplished or attempted to be accomplished by action of the county school boards, or by action of the county judge, or by action of the commissioners court, or by action of State educational officers or agencies, or by vote of the people residing in such territory, or by a combination of any two or more of the same.

Sec. 3. Without in any way limiting the generalization of the provisions of Section 1, the boundary lines of all such junior college districts and the names of all such junior college districts are hereby in all things validated.

Sec. 4. Without in any way limiting the generalization of the provisions of Section 1, all acts of the governing boards of such junior college 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 districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not yet issued, and all tax elections, bond elections, and bond assumption elections are hereby in all things validated. All revenue bonds issued and outstanding and all revenue bonds authorized but not yet issued for and on behalf of such districts are hereby in all things validated.

Sec. 5. This law shall not apply to any district which is now involved in litigation in any district court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or of the addition of territory to or detachment of territory from such districts is attacked, or to any district involved in proceedings now pending before the State Board of Education in which proceedings the validity of the organization or creation of such district or of the addition of territory to or detachment of territory from such district is attacked. This Act shall not apply to any district which has heretofore been declared invalid by a court of competent jurisdiction of this State.

Sec. 6. If any word, phrase, clause, sentence, paragraph, section, or part of this Act shall be held by any court of competent jurisdiction in this State to be invalid or unconstitutional, it shall not affect any other word, phrase, clause, sentence, paragraph, section, or part of this Act. Acts 1951, 52nd Leg., p. 544, ch. 320.

Emergency. Effective June 2, 1951.

Art. 2815k—1. Board of Trustees for certain Junior College Districts extending into two or more counties

Sec. 5. When three or more annexed contiguous districts, having the valuations provided in Section 1 hereof, lie wholly within one county, there shall be elected from that territory so making up said districts, by the qualified voters thereof, three (3) trustees, who shall be residents of said territory, but in no event shall more than two trustees be residents of any one of the annexed districts; provided that if said three or more annexed contiguous districts shall completely segregate, from that part of said Junior College District comprising the original Junior College District, any territory of said Junior College District, such segregated territory shall be amalgamated with the territory of the three or more annexed contiguous districts so segregating it; its qualified voters shall be electors of said three trustees and its residents, otherwise qualified, shall be eligible to hold such offices; but not more than two trustees shall be residents of any one of such annexed districts. As amended Acts 1951, 52nd Leg., p. 349, ch. 219, § 1.

Emergency. Effective May 17, 1951.

Art. 2815o—1. Board of regents; alternative procedure

Separate board of regents; vesting control in

Section 1. From and after the effective date of this Act, the Board of Trustees of any Independent School District created either under the

General Laws of this State, or by Special Act of the Legislature, which has the management, control and operation of a Junior College, may divest itself of the management, control and operation of any such Junior College so maintained and operated by such Board of Trustees; and said control of said Junior College District shall thereafter be vested in a separate Board of Regents of nine (9) members whose elective terms of office shall thereafter be for six (6) years.

Appointment of members

Sec. 2. Upon the Board of Trustees of any Independent School District, coming within the designation of Section 1 hereof, divesting itself of the management, control and operation of any Junior College maintained and operated by such Board of Trustees, said Board of Trustees of such Independent School District shall immediately appoint a Board of Regents for such Junior College District consisting of nine (9) members, who shall serve as the Board of Regents of said Junior College District as hereinafter provided.

Alternative method by petition and election

Sec. 3. As an alternate method of divesting the Board of Trustees of such Independent School District of its authority as the governing Board of such Junior College District, said Board shall, upon a petition signed by ten per cent (10%) of the qualified electors of said Independent School District, call an election within thirty (30) days, after said petition has been duly presented, for the purpose of determining whether said Board of Trustees of said Independent School District shall be divested of its authority as the governing Board of such Junior College District; provided that if the majority of the votes cast in said election are in favor of divesting the Board of Trustees of said Independent School District of its authority as the Governing Board of such Junior College District, said Board of Trustees of said Independent School District shall, within thirty (30) days after the official canvass of said election, appoint a Board of nine (9) Regents for said Junior College District which shall serve as said Board of Regents of said Junior College District as hereinafter provided.

Terms of office

Sec. 4. The nine (9) members appointed to the first Board of Regents, pursuant to the terms of this Act, shall determine by lot the terms to be served by such Regents. Three (3) Regents shall be so chosen by lot to serve until the first Saturday in April of the next even numbered calendar year, at which time three (3) Regents shall be elected for a term of six (6) years. Three (3) Regents shall be so chosen by lot to serve until the first Saturday in April of the next even numbered calendar year and for two (2) years thereafter, at which time three (3) Regents shall be elected for a term of six (6) years. Three (3) Regents shall be so chosen by lot to serve until the first Saturday in April of the next even numbered calendar year and for four (4) years thereafter, at which time three (3) Regents shall be elected for a term of six (6) years.

Vacancies

Sec. 5. The members of the Board of Regents remaining after a vacancy shall fill the same for the unexpired term.

Eligibility; manner of holding elections

Sec. 6. Any individual who meets the eligibility requirements for election to the Board of Trustees of an Independent School District shall be eligible for election to the Board of Regents provided for herein, and all

such elections shall be held in the manner and in conformity with the provisions of law now applicable to the election of Trustees of an Independent School District.

Partial invalidity

Sec. 7. 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 remaining portions 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 of the sections, subsections, sentences, clauses, or phrases should be declared unconstitutional. Acts 1951, 52nd Leg., p. 609, ch. 361.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 2815r. Dormitories, cottages and stadiums; museums; libraries, and other buildings

Obligations; pledge of revenues

Sec. 3. In payment for the erection, completion and equipping of such dormitories, cottages and stadiums, and the purchase of the necessary sites thereto, the Boards aforesaid are further authorized and empowered to issue their obligations in such sum or sums and upon such terms and conditions as to said directors may seem advisable, and as security for the payment thereof to pledge the net rents, fees, revenues and incomes from the improvements to be erected hereunder. Any bonds or notes issued hereunder shall bear interest at the rate not to exceed six per cent (6%) per annum and shall finally mature not more than forty (40) years from date. As amended Acts 1951, 52nd Leg., p. 565, ch. 329, § 1.

Emergency. Effective June 2, 1951.

Additions and additional buildings

Sec. 4. The aforesaid Boards are hereby authorized and empowered to pledge the unused part of any revenues from income producing buildings for the construction of additions to said buildings or the construction of any other buildings, and the purchase of the necessary sites therefor, as such Boards may deem necessary, provided that any subsequent issue of revenue bonds or notes shall be a second lien on said net revenues, rents, fees and incomes and shall be inferior to any outstanding revenue bonds or notes which are secured by a pledge of said net revenues, rents, fees and incomes. As amended Acts 1951, 52nd Leg., p. 342, ch. 213, § 1.

Emergency. Effective May 17, 1951.

8. REGIONAL COLLEGE DISTRICTS

Art. 2815t. Creation and regulation of regional college districts

Establishment authorized

Section 1. A regional college district may be established according to the method outlined herein by a county which contains a public junior college district, or by a combination of contiguous counties if one (1) of such contiguous counties contains a public junior college district, and if the county seat of said county or, if the proposed regional college district is composed of a combination of contiguous counties, the respective county seats of such contiguous counties is located at least ninety (90) miles by the then direct regularly traveled road or highway from the

county seat of any county containing a state-supported senior college or university provided, that the assessed property valuation of the proposed regional college district, for State and county purposes according to the most recent tax rolls is at least Fifty-two Million Dollars (\$52,000,000) and that the scholastic population of such proposed district must not be less than thirty thousand (30,000) scholastics according to the most recent scholastic census thereof, as approved by the appropriate State authority, and provided that the population of such county containing a public junior college district is not less than one hundred and twenty-four thousand (124,000) according to the then most recent United States census.

Petition for election

Sec. 2. Whenever it is proposed to establish a regional college district, a petition signed by not fewer than one hundred (100) of the qualified property taxpaying voters of said public junior college district and not fewer than one hundred (100) of the qualified property taxpaying voters of each of the counties in the territory of such proposed regional college district shall be addressed and presented to the Commissioners Court of the county or the Commissioners Courts of the respective counties of such proposed regional college district, praying that an election shall be held upon a stated date in such county or counties which date shall be not less than thirty (30) nor more than sixty (60) days after the date of such petitions, for the purpose of determining whether or not such a regional college district shall be formed and such regional college shall be established and whether or not such junior college district shall be merged into said regional college district and whether or not such regional college district shall assume the bonded indebtedness of such junior college district and whether or not such proposed district shall have the power to levy taxes for the payment of such bonded indebtedness and for the maintenance and operation of said regional college and for providing buildings and facilities therefor, all of which questions shall be submitted as parts of one (1) proposition to be printed on the ballots at such election. The signatures for such petition shall be segregated according to the county in which the signers reside and the signatures of the petitioners residing in such public junior college district shall also be segregated, under appropriate headings indicating the county or district of residence. Such petition may be in two (2) or more counterparts according to the number of counties proposed to be included in such regional college district and respective counterparts of said petition may be filed with and presented to the Commissioners Courts of said respective counties. The name of such proposed regional college district shall be set forth in said petition and shall include therein the words "Regional College District."

Election

Sec. 3. It shall be the duty of the said Commissioners Court or Courts of said county or respective counties, promptly after receiving said petition or petitions to order an election to be held throughout their respective county or counties on the date fixed in said petition, and said order shall designate the polling places for said election in said county or counties and appoint officers thereof and provide the supplies therefor and shall set forth the name of such proposed district. The election precincts for said election shall conform as nearly as practicable to the regular election precincts of said county or respective counties, but the election precincts within the boundaries of such public junior college district shall not embrace any territory outside of said public junior college district. Each such Commissioners Court shall give notice of said election in its county by causing such notice to be published once each week for two (2)

alternate weeks before said election in some newspaper having general circulation in said county, the first publication being at least twenty-one (21) days before said election. If there be no newspaper published having general circulation in such county, the notice of the election to be held in said county shall be published in some newspaper published outside of said county having general circulation in said county and such notice shall also be posted in a public place in each of the Commissioner's Precincts of said county, one (1) of which shall be at the courthouse door of said county. If a regular session of any such Commissioners Court is not to be held in time to order such election and give such notice thereof, it shall be the duty of the County Judge of such county, upon petition being called to his attention to timely call a special session of such Court for this purpose.

The proposition to be submitted at said election in each county, and to be printed on the ballots therefor, shall be as follows:

"FOR the college merger, assumption of bonded indebtedness thereof, and for the establishment of a regional college and the levying of taxes for the maintenance and operation thereof, and for providing buildings and facilities therefor."

"AGAINST the college merger, assumption of bonded indebtedness thereof, and the establishment of a regional college and the levying of taxes for the maintenance and operation thereof, and providing buildings and facilities therefor."

Only qualified electors who own taxable property in the county in which they offer to vote and who have duly rendered their property for taxation shall be permitted to vote at said election.

Except as otherwise herein provided, such election in each county shall be conducted in accordance with the general election laws of the State.

Canvass of returns and declaration of result; effect of vote

Sec. 4. Such Commissioners Court or Courts, as the case may be, shall within ten (10) days after holding such election, make a canvass of the returns and declare the results of the election. If a majority of those voting at said election within the boundaries of such public junior college district, and a majority of those voting at said election in each of such counties, vote for the proposition submitted, the merger of such public junior college district into and with such regional college district, and the assumption by such regional college district of the bonded indebtedness of such public junior college district shall be deemed to have been effected, and a regional college shall be established in such regional college district, conformably to the further provisions hereof, but the failure of the proposition submitted in any county not containing a public junior college district shall in nowise affect the formation of the proposed regional college district in any other county in which such election is held wherein a majority of the qualified property taxpaying voters voting in such election in such county vote for the proposition submitted in the election order; provided, that a majority of the qualified property taxpaying voters voting in such election in the public junior college district and in the county in which such public junior college district is located, vote for the proposition submitted in the election order. If the regional college district is not created by virtue of such election, another election for such purpose may be held in said proposed regional college district, or portion thereof containing a public junior college district, not less than one (1) year from the date of such previous election, provided it be initiated by the same procedure above prescribed for the first election.

Board of regents

Sec. 5. If the merger herein provided for is effected by said election, or any subsequent election, held for said purposes, under the further provisions hereof, such regional college district shall thereafter be governed by a Board of Regents, constituted as herein provided. Said Board of Regents shall be made up in part of one (1) regent from each of the several county commissioners precincts of the respective counties. In addition, there shall be one (1) regent at large from each of such counties, for each ten thousand (10,000) scholastics of the respective counties, or major fraction thereof; provided that there shall always be at least one (1) such regent at large from each of such counties. The first regents, constituting said Board of Regents, from each of such counties, shall be appointed by the Commissioners Courts of said respective counties, provided that the Commissioner of each precinct shall name the regent to be appointed from his precinct which appointment shall be made within thirty (30) days after the election at which said merger shall have been effected; that is to say, the Commissioners Court of each of such counties shall appoint one (1) regent from each of the Commissioners precincts thereof who shall be named by the Commissioner from that precinct and shall appoint, from the county at large, the number of regents at large to which said county is entitled. Every regent of said college, whether appointed or elected, shall, before assuming the duties of his office, qualify by taking the official oath prescribed for State officers.

The Board of Regents thus appointed shall first meet within twenty-one (21) days of the time the members are appointed at a time and place appointed by the County Judge of the county containing the public junior college district, and shall proceed to organize by electing, from among its members, a President and Vice-President, and shall also elect a Secretary and a Treasurer, which may or may not be one and the same person, at the discretion of the Board. The Secretary and the Treasurer need not be a member or members of the Board of Regents. The Secretary and Treasurer shall, before assuming the duties of his or their office, first take the oath prescribed for State officers, and the Treasurer shall also execute a bond, with good and sufficient surety or sureties, in an amount to be determined by the Board of Regents, payable to the President of the Board of Regents, or his successors in office, conditioned that he will faithfully perform the duties of his office, and faithfully account for all sums of money or other property belonging to said district coming into his hands as such Treasurer. The amount of such bond may, at any time, be increased or decreased by the Board of Regents, according as they may deem necessary for the protection of the property and funds of the district for which such Treasurer shall be accountable. The premiums, if any, for such bond or bonds shall be payable out of funds of the district. The Secretary and the Treasurer shall have and perform such duties and powers as are usually incident to said offices, in the case of private corporations, and such other duties and powers as may be provided by the Board of Regents. Such Secretary and Treasurer shall hold office at the will and pleasure of the Board of Regents. The Board of Regents may also appoint such assistant Secretaries as it may deem necessary for the proper conduct of the duties of that office.

At the first meeting of said Board of Regents so appointed, or as soon thereafter as practicable the four (4) regents selected from the commissioners precincts of each county shall determine by lot, in a manner to be prescribed by the Board of Regents, which two (2) of them shall hold office for the short term, and which two (2) shall hold office for the long term. The two (2) regents from each county drawing the short term shall hold office until the first Saturday in April of the second calendar

year after the calendar year in which they are appointed; and the two (2) regents from each such county drawing the long term shall hold office until the first Saturday in April of the fourth calendar year after the calendar year in which they are appointed. In either county in which there is only one (1) regent at large so appointed, such regent at large shall hold office until the expiration of the short term provided for regents from commissioners precincts. If there be more than one (1) regent at large from either of said counties, their respective first terms of office shall also be determined by lot, and for the same length of terms as provided in the case of regents from commissioners precincts. If such regents at large from any county be of an odd number, the majority of them shall serve for the long term and the minority of them shall serve for the short term, as so determined by lot.

The terms of office of all regents elected to their offices shall be for four (4) years, and at the end of their respective terms their successors shall be elected in the manner herein provided. The Board of Regents shall cause a permanent record to be made and preserved of the terms of office of each appointed regent determined by lot as herein provided.

At the expiration of the term of office of each regent appointed as herein provided, a successor shall be elected at elections held within the respective commissioners precincts, and in the respective counties at large, for the election, respectively, of regents from commissioners precincts and regents from said respective counties at large, at the same time and in the same manner as is provided for the election of county school trustees in said respective counties, and at the same polling places and by the same election officers as provided for the election of county school trustees, provided that all such elections shall be called by said Board of Regents, who shall give public notices of such elections in advance thereof in such manner as may be determined by such Board of Regents in order to call the attention of the voting public thereto. The forms of the ballots to be used may also be determined by the Board of Regents, provided, at the discretion of the Board of Regents, the same ballot for the election of county trustees may be used for the election of regents. One half ($\frac{1}{2}$) the expenses of the election in each election in which a county school trustee and a regent or regents are to be elected shall be paid by the Board of Regents to the Commissioners Court of the county affected.

The Commissioners Court of each county in which any election of regents is held shall receive and canvass the returns thereof, and declare the results thereof, at the same time and in the same manner as provided by law in the case of election of county school trustees, and shall forthwith certify the election of such regents to the Board of Regents of such college district.

All provisions hereof with reference to election of regents in counties originally constituting said regional college district shall extend and apply to elections of regents in entire counties that may hereafter be annexed to said college district under the further provisions hereof.

Property, funds and resources of junior college district; contracts

Sec. 6. Upon the merger of said public junior college district into and with the regional college district, all property, funds and resources of the public junior college district shall pass to and belong to said regional college district, and all contracts of such public junior college district shall extend to and be binding upon such regional college district; provided that the management and control of the property and affairs of the public junior college district shall continue in the Board of Trustees of such public junior college district until the appointment and organization of the Board of Regents of the regional college district, at which time the Board of Trustees of said public junior college district

shall turn over all records, property and affairs of the said public junior college district to the Board of Regents of said regional college district and shall cease to exist as a Junior College Board of Trustees.

Scholastic census; conduct of elections; organization of board; meetings; office

Sec. 7. The number of scholastics of each of said counties, for the purposes herein provided, shall be determined in the first instance, and from time to time, according to the most recent scholastic census of each of said respective counties, as approved by the State agency then authorized to approve such census. Such scholastic census of said respective counties for ascertaining the number of regents at large to which said respective counties are entitled hereunder, to be appointed under the provisions hereof, shall first be made by the county superintendent of said county or respective counties. Such determination shall thereafter be made and certified before each biennial election of regents at large, by the Board of Regents. All elections herein provided for shall be conducted according to the general election laws of the State of Texas, except as herein otherwise provided. All vacancies occurring in the Board of Regents shall be filled by appointment by the Board of Regents. After each election of regents the Board of Regents shall organize as herein provided. The Board of Regents shall select and maintain a regular office for their meetings and the transaction of their business, at such place as they determine, and shall hold regular meetings at such times as may be provided in the rules or bylaws of said Board of Regents, and may hold special meetings at the call of the President or any five (5) of the members of the Board.

Rules of procedure; quorum; seal; suits

Sec. 8. The Board of Regents may adopt its own rules of procedure, but a majority of said regents shall constitute a quorum, and a majority of those in attendance may transact any business.

The Board of Regents of such regional college district shall adopt an official seal for the district, and said district may sue and be sued in its name. In any suit against said district, process may be served on the President or Vice-President.

Compensation and expenses of board

Sec. 9. The Board of Regents of such regional college district may authorize the payment of a per diem of not to exceed Ten Dollars (\$10) to each member of such Board of Regents in attendance at a regular or special meeting of such Board of Regents. In addition, members of said Board of Regents may be allowed such actual expenses as may be incurred by them in performing their duties as may be authorized and allowed by the Board of Regents, provided, that per diem payments may not be made in addition to payments for actual expenses.

Powers of board

Sec. 10. The said Board of Regents shall have all the power and duties in respect of the business and affairs of the regional college district as provided by law in respect of the Board of Trustees of Junior College Districts, and such other powers as herein provided and as may be hereafter provided by law.

Annexation of contiguous county or independent districts

Sec. 11. The entire area of any county adjacent to a regional college district, the county seat of which is located at least seventy (70) miles by the then direct regularly traveled road or highway from the county seat

of any county containing a state-supported senior college or university, or the area of any one or more independent school districts of such an adjacent county, contiguous to said regional college district, may be annexed to, and assume its prorata part of the bonded indebtedness of, said regional college district, in the manner herein provided. A petition of one hundred (100) of the property taxpaying voters of any such county or of any such independent school district, proposing that the entire area of such adjacent county, or of such independent school district, as the case may be, be annexed to, and that such county-wide area or such district area assume its prorata part of the bonded indebtedness of, said regional college district, may be submitted to the Board of Regents of such regional college district. If the said Board of Regents determines that it would be to the interest of said regional college district and of the area proposed to be annexed, that such annexation be accomplished, said Board of Regents shall adopt a resolution so finding, and said petition and certified copy of said resolution shall be submitted to the Commissioners Court of said adjacent county, and it shall be the duty of said Commissioners Court, within fifteen (15) days after the presentation of such petition and copy of such resolution, to order an election to be held in said county at large, or in such school district, or districts, as the case may be, for the purpose of determining if the area of said county, or the area of such school district, or districts, shall be annexed to said regional college district, and assume its prorata part of the bonded indebtedness of said regional college district; said election to be held not earlier than sixty (60) days nor later than ninety (90) days after passage of such order. The proposition to be voted on at said election and to be printed on the ballots therefor shall be:

"FOR annexation to the regional college district and assumption of prorata part of its bonded indebtedness."

"AGAINST annexation to the regional college district and assumption of prorata part of its bonded indebtedness."

The name of such District shall be inserted in the proposition.

Said Commissioners Court shall designate the polling place of said election and appoint the officers thereof, and furnish the supplies therefor. Only qualified electors who own taxable property in said county or school district, as the case may be, and who have duly rendered the same for taxation, shall be qualified to vote at said election. Said election shall be conducted in accordance with the General Election laws of Texas, in so far as applicable. Returns of said election shall be made to said Commissioners Court and canvassed by said court.

If the majority of the votes cast at such election are in favor of said proposition, such fact shall be certified by the Commissioners Court to the Board of Regents of said regional college district, and the entire area of said county, or of said school district, or districts, as the case may be, shall be deemed to have been annexed to and shall be a part of said regional college district and shall be subject to taxation for the payment of the existing bonded indebtedness and the maintenance of said regional college district the same as other property in the area of said regional college district.

In the event an entire adjacent county is so annexed, the Commissioners Court of such county shall forthwith appoint a regent for said college from each of the Commissioners Precincts of said county, and shall also appoint one (1) or more regents at large from said county at large, according to the number of regents at large that such county may be entitled to under the provisions hereof with reference to determining the number of regents at large that a county is entitled to. All such regents shall, before entering upon the duties of their offices, take the oath as

herein prescribed for regents. Such appointment shall be certified by the Clerk of the Commissioners Court to the Board of Regents of said regional college district. At the first meeting of the Board of Regents after the appointment and qualification of regents from such annexed county, the four (4) regents from such annexed county selected from Commissioners Precincts shall determine by lot, in the manner provided by the Board of Regents, which two (2) of them shall serve for the short term and which two (2) of them shall serve for the long term. The short term shall expire at the same time as the terms of office of regents from Commissioners Precincts of other counties in the district whose terms of office expire next after the time of such appointment, and the long term shall continue until the expiration of the terms of office of regents from Commissioners Precincts from other counties in said district whose terms of office are the latest to expire.

If there be only one (1) regent at large from such annexed county, his term of office shall be for the long term herein provided for regents from Commissioners Precincts thereof. If there be more than one (1) regent at large from such annexed county their terms of office shall be determined by lot and divided between the short term and the long term of regents from Commissioners Precincts of said county in the manner herein provided for first allotting terms of office of regents at large of said college. Thereafter, successors to the regents from said annexed county shall be elected in the manner provided for other counties in said district.

In the event the area of one (1) or more independent school districts of an adjacent county, instead of the entire county, is annexed to said regional college district, said annexed territory shall be entitled to one (1) regent to be elected at large therein for each ten thousand (10,000) scholastics of said area, or major fraction thereof, but shall be entitled, in any event, to at least one (1) regent. Immediately after such annexation the Commissioners Court of the county in which such area is situated shall appoint, from said area, the number of regents to which such area is entitled. If only one (1) regent is so appointed, he shall hold office until the expiration of the term of the regents of said college from other counties then in office whose terms expire last; and if there be more than one (1) regent from said annexed territory, their terms of office shall be determined by lot in the same manner and to the same effect as is herein provided for determining the terms of office of regents at large from annexed counties. At the expiration of the term of each regent from such annexed territory his successor shall be elected at an election to be held in the annexed area, to be called by the Board of Regents, which shall designate the polling place or places, the officers of the election, provide the supplies therefor and pay the expenses thereof.

Taxes

Sec. 12. The Tax Assessors and Collectors of the county or respective counties containing territory embraced within the boundaries of such regional college district shall assess and collect the taxes of said college district on the taxable property in the territory of said district located in said county or respective counties on levies made and rates fixed by the Board of Regents of said district. The assessed valuations of said property for State and county taxes shall be used as the valuations for said college district taxes. Such tax collectors shall collect the college district taxes at the same time that he collects the State and county taxes. All taxes collected for such regional college district shall be accounted for to and paid over to the Treasurer of said college district by such tax collector, and he shall receive the same compensation for assessing and collecting such taxes as provided by law for like services rendered for junior college districts.

President of college

Sec. 13. The Board of Regents shall choose the President of the regional college, fix his term of office, designate his salary, and define his duties. The President shall be the executive officer of the Board of Regents and shall work under its direction. He shall recommend the plan of organization of the college and shall recommend the appointment of all employees.

Establishment of college; divisions; support

Sec. 14. The Board of Regents shall proceed as soon as practicable to establish a regional college in said regional college district, which shall consist of three (3) divisions, as follows:

A. A Junior College Division, which shall operate under all laws applicable to public junior colleges in Texas.

B. An Adult Education Division for adults regardless of age or former education for

(1) Basic education to emphasize citizenship, English, and training in elemental mathematics and science

(2) Terminal, vocational, and technological education and training in their generally accepted sense

(3) Work and study groups based on needs and interests as displayed by the residents of the area served by the regional college

The Adult Education Division shall emphasize continuation of education of adults with emphasis upon democracy and citizenship.

C. A Senior College Division which shall be guided by educational practices and principles applicable to upper division work in first-class colleges and universities; provided that any bachelor's degree shall be based on four (4) years of college work and that any higher degree with appropriate courses may be offered when in the judgment of the Board of Regents, the educational welfare of the people served by the college demands and justifies such work and such courses. All of which shall be organized and blended into an educational program by the President of the college and his staff.

It is understood and provided that no funds shall ever be appropriated from the Treasury of the State of Texas or public moneys of this State for the support or partial support by the Legislature of Texas of any Adult and Senior College Divisions of such regional colleges created under the provisions of this Act, provided, however, that nothing herein contained shall in any manner prevent or interfere with the provisions of law now or hereafter existing authorizing State aid to the Junior College Divisions of such regional college districts in the same manner and to the same extent as that granted to Junior College Districts.

**Buildings, property and resources of junior college district;
fees and tuition; tax levy; bonds**

Sec. 15. All buildings, property, and other educational resources of the public junior college district at the time of said merger shall be available for all divisions of the regional college in accordance with the laws of Texas governing public junior college districts and as determined by the Board of Regents of the regional college district. The Board of Regents shall have the power to fix such fees and tuition rates as shall be deemed to be necessary. In addition, the Board of Regents shall have the power to levy taxes and make such distribution of such taxes as it may deem necessary for the adequate support of said college; provided that the total annual tax levy for all regional college purposes shall not exceed a rate of Fifty Cents (50¢) on each one hundred dollars of assessed val-

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

uation of taxable property located in such regional college district. All powers relating to the issuance of bonds, the construction or acquisition of buildings and facilities, taxation, and otherwise, vested by law in public junior college districts shall be applicable to said regional college district, subject, however, to the limitation of Fifty Cents (50¢) on each one hundred dollars of valuation above mentioned.

Donations, gifts and endowments

Sec. 16. Said Board of Regents is authorized, in behalf of said regional college, to accept donations, gifts, and endowments for the college to be held in trust and administered by the Board of Regents for such purpose and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with the proper management and objects of the college.

Partial invalidity

Sec. 18. If any word, phrase, clause, sentence, paragraph, or Section of this Act shall be held by any court of competent jurisdiction to be invalid, such holding shall not affect any word, phrase, clause, sentence, paragraph, or section not so held invalid. Acts 1951, 52nd Leg., p. 438, ch. 272.

Effective 90 days after June 8, 1951, date of adjournment.

Section 17 of the act of 1951 repealed conflicting laws and parts of laws.

CHAPTER SEVENTEEN—TEACHERS' CERTIFICATES AND SALARIES

Art. 2898—1. Repealed. Acts 1951, 52nd Leg., p. 307, ch. 183, § 1. Eff. 90 days after June 8, 1951, date of adjournment

A preamble to the repealing act recited that the Attorney General had ruled that the act of 1945 was unconstitutional as a local or special law.

CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art. 2919d. Southern States Regional Compact [New].

Art. 2908b. Exclusion of persons advocating overthrow of government or adherence to foreign government

Execution each time person registers; retention and preservation

Sec. 2. The foregoing affidavit or affirmation shall be executed by every person each time such person seeks to register for attendance in any State-supported college or university after the date this Act becomes effective. All such oaths, affidavits or affirmations signed by any such person shall be retained and preserved by such college or university until the person filing the same shall have graduated, or withdrawn, from the college or university, at which time the same may be destroyed. As amended Acts 1951, 52nd Leg., p. 866, ch. 489, § 1.

Affidavit or affirmation upon employment; retention and preservation

Sec. 3. The foregoing affidavit or affirmation shall also be executed by every person before any contract of employment between such person and a State-supported college or university is signed or renewed after the date this Act becomes effective. All such oaths, affidavits or affirmations signed by any such person shall be retained and preserved by

such college or university until the person filing the same shall cease to be employed in such college or university, at which time the same may be destroyed. As amended Acts 1951, 52nd Leg., p. 866, ch. 489, § 2.

Emergency. Effective June 21, 1951.

Art. 2919d. Southern States Regional Compact

Declaration of policy

Section 1. It is declared to be the policy of the State of Texas to promote the development and maintenance of regional educational services and facilities in the Southern States in the professional, technological, scientific, literary, and other fields so as to provide greater educational advantages for the citizens of the State of Texas and the citizens of the States in the Southern region. This policy can best be accomplished under the plan embodied in the regional compact entered into by the State of Texas and thirteen other States February 8, 1948, through their respective Governors.

Text of compact

Sec. 2. The above mentioned regional education compact, as amended, reads as follows:

THE REGIONAL COMPACT

(As amended)

WHEREAS, The States who are parties hereto have during the past several years, conducted careful investigation looking toward the establishment and maintenance of jointly owned and operated regional educational institutions in the Southern States in the professional, technological, scientific, literary and other fields, so as to provide greater educational advantages and facilities for the citizens of the several States who reside within such region; and

WHEREAS, Meharry Medical College of Nashville, Tennessee, has proposed that its lands, buildings, equipment, and the net income from its endowment be turned over to the Southern States, or to an agency acting in their behalf, to be operated as a regional institution for medical, dental and nursing education upon terms and conditions to be hereafter agreed upon between the Southern States and Meharry Medical College; which proposal, because of the present financial condition of the institution has been approved by the said States who are parties hereto; and

WHEREAS, The said States desire to enter into a compact with each other providing for the planning and establishment of regional educational facilities; now,

THEREFORE, In consideration of the mutual agreements, covenants and obligations assumed by the respective States who are parties hereto (hereinafter referred to as "States"), the said several States do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting States, which, for the purpose of this compact, shall constitute an area for regional education supported by public funds derived from taxation by the constituent States and derived from other sources for the establishment, acquisition, operation and maintenance of regional educational schools and institutions, for the benefit of citizens of the respective States residing within the region so established, as may be determined from time to time in accordance with the terms and provisions of this Compact.

The States do further hereby establish and create a joint agency which shall be known as the Board of Control for Southern Regional Education

(hereinafter referred to as the "Board"), the members of which Board shall consist of the Governor of each State, ex officio, and three additional citizens of each State to be appointed by the Governor thereof, at least one of whom shall be selected from the field of education. The Governor shall continue as a member of the Board during his tenure of office as Governor of the State, but the members of the Board appointed by the Governor shall hold office for a period of four years except that in the original appointments one Board member so appointed by the Governor shall be designated at the time of his appointment to serve an initial term of two years, one Board member to serve an initial term of three years, and the remaining Board member to serve the full term of four years, but thereafter the successor of each appointed Board member shall serve the full term of four years. Vacancies on the Board caused by death, resignation, refusal or inability to serve, shall be filled by appointment by the Governor for the unexpired portion of the term. The officers of the Board shall be a Chairman, a Vice-Chairman, a Secretary, a Treasurer, and such additional officers as may be created by the Board from time to time. The Board shall meet annually and officers shall be elected to hold office until the next annual meeting. The Board shall have the right to formulate and establish by-laws not inconsistent with the provisions of this Compact to govern its own actions in the performance of the duties delegated to it, including the right to create and appoint an Executive Committee and a Finance Committee with such powers and authority as the Board may delegate to them from time to time. The Board may, within its discretion, elect as its Chairman a person who is not a member of the Board, provided such person resides within a signatory State; and upon such election such person shall become a member of the Board with all the rights and privileges of such membership.

It shall be the duty of the Board to submit plans and recommendations to the States from time to time for their approval and adoption by appropriate legislative action for the development, establishment, acquisition, operation and maintenance of educational schools and institutions within the geographical limits of the regional area of the States, of such character and type and for such educational purposes, professional, technological, scientific, literary, or otherwise, as they may deem and determine to be proper, necessary or advisable. Title to all such educational institutions when so established by appropriate legislative actions of the States, and to all properties and facilities used in connection therewith, shall be vested in said Board as the agency of and for the use and benefit of the said States and the citizens thereof; and all such educational institutions shall be operated, maintained and financed in the manner herein set out, subject to any provisions or limitations which may be contained in the legislative Acts of the State authorizing the creation, establishment and operation of such educational institutions.

In addition to the power and authority heretofore granted, the Board shall have the power to enter into such agreements or arrangements with any of the States and with educational institutions or agencies, as may be required in the judgment of the Board, to provide adequate services and facilities for the graduate, professional, and technical education for the benefit of the citizens of the respective States residing within the region, and such additional and general power and authority as may be vested in the Board from time to time by legislative enactment of the said States.

Any two or more States who are parties of this Compact shall have the right to enter into supplemental agreements providing for the establishment, financing and operation of regional educational institu-

tions for the benefit of citizens residing within an area which constitutes a portion of the general region herein created, such institutions to be financed exclusively by such States and to be controlled exclusively by the members of the Board representing such States, provided such agreement is submitted to and approved by the Board prior to the establishment of such institutions.

Each State agrees that, when authorized by the Legislature, it will from time to time make available and pay over to said Board such funds as may be required for the establishment, acquisition, operation and maintenance of such regional educational institutions as may be authorized by the States under the terms of this Compact, the contribution of each State at all times to be in the proportion that its population bears to the total combined population of the States who are parties hereto as shown from time to time by the most recent official published report of the Bureau of the Census of the United States of America; or upon such other basis as may be agreed upon.

This Compact shall not take effect or be binding upon any State unless and until it shall be approved by proper legislative action of as many as six or more of the States whose Governors have subscribed hereto within a period of eighteen months from the date hereof. When and if six or more States shall have given legislative approval to this Compact within said eighteen months period, it shall be and become binding upon such six or more States sixty days after the date of legislative approval by the sixth State, and the Governors of such six or more States shall forthwith name the members of the Board from their States as hereinabove set out, and the Board shall then meet on call of the Governor of any State approving this Compact, at which time the Board shall elect officers, adopt by-laws, appoint committees and otherwise fully organize. Other States whose names are subscribed hereto shall thereafter become parties hereto upon approval of this Compact by legislative action within two years from the date hereof, upon such conditions as may be agreed upon at the time. Provided, however, that with respect to any State whose constitution may require amendment in order to permit legislative approval of the Compact, such State or States shall become parties hereto upon approval of this Compact by legislative action within seven years from the date hereof, upon such conditions as may be agreed upon at the time.

After becoming effective this Compact shall thereafter continue without limitation of time; provided, however, that it may be terminated at any time by unanimous action of the States; and provided further that any State may withdraw from this Compact if such withdrawal is approved by its Legislature, such withdrawal to become effective two years after written notice thereof to the Board accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing State from its obligations hereunder accruing up to the effective date of such withdrawal. Any State so withdrawing shall ipso facto cease to have any claim to or ownership of any of the property held or vested in the Board or to any of the funds of the Board held under the terms of this Compact.

If any State shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said State as authorized by and in compliance with the terms and provisions of this Compact, all rights, privileges and benefits of such defaulting State, its members on the Board and its citizens, shall ipso facto be and become suspended from and after the date of such default. Unless such default shall be remedied and made good within a period of one year immediately following the date of such default this

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

Compact may be terminated with respect to such defaulting State by an affirmative vote of three-fourths of the members of the Board (exclusive of the members representing the State in default), from and after which time such State shall cease to be a party to this Compact and shall have no further claim to or ownership of any of the property held by or vested in the Board or to any of the funds of the Board held under the terms of this Compact, but such termination shall in no manner release such defaulting State from any accrued obligation or otherwise affect this Compact or the rights, duties, privileges or obligations of the remaining States thereunder.

IN WITNESS WHEREOF this Compact has been approved and signed by Governors of the several States, subject to the approval of their respective legislatures in the manner hereinabove set out, as of the 8th day of February, 1948.

STATE OF FLORIDA

By Millard F. Caldwell

Governor

STATE OF MARYLAND

By Wm. Preston Lane, Jr.

Governor

STATE OF GEORGIA

By M. E. Thompson

Governor

STATE OF LOUISIANA

By J. H. Davis

Governor

STATE OF ALABAMA

By James E. Folsom

Governor

STATE OF MISSISSIPPI

By F. L. Wright

Governor

STATE OF TENNESSEE

By Jim McCord

Governor

STATE OF ARKANSAS

By Ben Laney

Governor

COMMONWEALTH OF VIRGINIA

By William M. Tuck

Governor

STATE OF NORTH CAROLINA

By R. Gregg Cherry

Governor

STATE OF SOUTH CAROLINA

By J. Strom Thurmond

Governor

STATE OF TEXAS

By Beauford H. Jester

Governor

STATE OF OKLAHOMA

By Roy J. Turner

Governor

STATE OF WEST VIRGINIA

By Clarence W. Meadows

Governor

Approval of compact

Sec. 3. The above Compact is approved. The State of Texas is declared to be a party to said Compact, and the agreements, covenants and obligations contained therein are declared to be binding on the State of Texas, insofar as is permissible under the Constitution of the State of Texas.

Representation of state by Governor

Sec. 4. The State of Texas shall be represented by the Governor in all matters concerning the regional education program, and he shall have all powers necessary to effectuate the purposes of the Compact including the power to make contracts with the Board of Control for Southern Regional Education for the education of Texas citizens in States other than Texas.

Copies of act for other states

Sec. 5. The Governor shall sign an enrolled copy of this Act and sufficient copies shall be provided to supply each State approving the Compact with an enrolled copy.

Partial invalidity

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared severable. Acts 1951, 52nd Leg., p. 567, ch. 331.

Emergency. Effective June 2, 1951.

The act of 1951 contained the following preamble:

"WHEREAS, On February 8, 1948, fourteen Southern States, through their Governors, entered a written compact relative to the development and maintenance of regional education services and schools in the Southern States in the professional, technological, scientific, literary, and other fields, so as to provide greater educational advantages and facilities for the citizens residing in the Southern region, which compact has since been approved by thirteen of the fourteen original compacting States, Texas being the only State which has not availed itself of the benefits of the compact; and

"WHEREAS, Though participation in the regional education program would not relieve the State of Texas of its duty to provide equal educational opportunity to all its citizens, Texas citizens would receive

inestimable educational benefits since greater educational facilities would be available to Texas Negro students as well as to other citizens of Texas without the tremendous expenditure to the State of Texas that the duplication of these facilities in Texas would involve, and approval of this compact would supplement importantly the facilities of higher education available to Texas students; now, therefore,"

Complementary Legislation:

Florida—Laws 1949, c. 25017, F.S.A. §§ 244.01-244.03.

Georgia—Laws 1949, p. 56.

Kentucky—Laws 1950, c. 252.

Louisiana—Acts 1948, No. 367, § 1; R.S. 1950, § 17; 1901.

Maryland—Laws 1949, c. 282.

Title of Act:

An Act approving the regional education compact; and declaring an emergency. Acts 1951, 52nd Leg., p. 567, ch. 331.

CHAPTER NINETEEN A—RURAL HIGH SCHOOLS

Art.
2922l(5). Conversion into independent dis-
trict [New].

Art.
2922l(6). Assessment and equalization of
taxes in counties of 350,000 or
more [New].

Art. 2922l(5). Conversion into independent district**Petition; election; order; county line districts**

Section 1. Upon a petition properly signed by twenty (20), or a majority, of the legally qualified property taxpaying voters residing in any rural high school district in which there is maintained a first-class high school of twelve (12) grades, offering sixteen (16) or more credits, the County Judge of said county shall issue an order calling for an election to be held not less than twenty (20) nor more than thirty (30) days from the date of the filing of said petition, for the purpose of converting the rural high school district into an independent school district for school purposes. After said election is held, the Commissioners Court shall canvass the returns thereof as in other similar elections, and if the majority of the votes cast favor the change from a rural high school district into an independent school district, then said Commissioners Court shall enter its order to that effect and incorporating said independent school district. A certified copy of said order shall be recorded by the County Clerk in the Deed Records of the county. When it is proposed to convert a county line rural high school district into an independent school district, the petition shall be presented to the County Judge of the county in which the greater or greatest area of the district lies and the returns of the election shall be canvassed by the Commissioners Court of said county, and the other duties imposed herein shall be performed by said County Judge and said Commissioners Court. Thereupon, such "independent school district" shall thereafter be regarded as duly incorporated for free school purposes only and shall have and is hereby vested with all the rights, powers and privileges conferred and imposed by the General Laws of this State upon independent school districts.

Board of trustees

Sec. 2. Whenever any independent school district is incorporated under this Act, the Board of Trustees of the rural high school district shall maintain their status as Trustees of the newly incorporated independent school district and shall continue to serve until their respective terms of office expire.

Property

Sec. 3. The titles and rights to all property owned, held, set apart, or in any way dedicated to the use of the public schools of the elementary school districts comprising the rural high school district for school purposes only, shall be and are hereby vested in the Board of Trustees of such independent school district, after incorporating under this Act, and shall be managed and controlled by the Board of Trustees as is now or may hereafter be provided by law.

Bonds and obligations

Sec. 4. All bonds issued by and outstanding against any such rural high school district, as a school district, and all obligations, contracts and indebtedness existing against the rural high school district, shall

become the obligations and debts of the independent school district at the time of its incorporation; and the said independent school district, after same has been incorporated, shall be held to have assumed the discharge of all such obligations, contracts and indebtedness, and the same shall be enforceable and collectible from, paid off and discharged by, the said independent school district, as if originally created by it as an independent school district; and it shall not be necessary to call an election within and for such district for the purpose of assuming such bonds and other indebtedness.

Repeal; partial invalidity

Sec. 5. All laws or parts of laws in conflict herewith are hereby repealed; and in the event any provision of this Act is declared unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Act shall, nevertheless, remain in full force and effect. Acts 1951, 52nd Leg., p. 69, ch. 42.

Emergency. Effective April 12, 1951.

Art. 2922l(6). Assessment and equalization of taxes in counties of 350,000 or more

Section 1. In lieu of the manner of assessment and collection of taxes, as provided in Section 12 of House Bill No. 38, Acts 39th Legislature, Regular Session, 1925, as amended (Article 2922L, Vernon's Civil Statutes, as amended), the board of trustees of any rural high school district in counties, or subject to the jurisdiction of counties, having a population of three hundred fifty thousand (350,000) or more, inhabitants according to the last preceding Federal Census, may by majority vote choose to have the taxes of their district assessed and collected by an assessor-collector for such rural high school district and have such taxes equalized by the board of equalization of such district. The board of trustees of any such rural high school district may appoint an assessor-collector who shall assess the taxable property within the limits of the district within the time and manner provided by existing laws, insofar as they are applicable, and collect such tax. He shall receive such compensation for his services as the board of trustees may allow. He shall give bond in double the estimated amount of taxes coming annually into his hands, payable to and to be approved by the president of the board, conditioned for the faithful discharge of his duties, and that he will deposit in the county depository to the credit of such rural high school district all funds coming into his hands by virtue of his office as such assessor and collector. The board of trustees may appoint also one or more deputy tax assessor-collectors for the district, who shall receive for their services such compensation as the board may allow.

Sec. 2. In all matters regarding the assessment and collection of taxes by rural high school districts adopting the provisions of this Act, the laws relating to the assessment and collection of taxes in independent school districts shall govern insofar as they are not inconsistent with the provisions of this Act.

Sec. 3. This Act shall not be exclusive but shall be cumulative of and in addition to all other laws relating to the subject. Acts 1951, 52nd Leg., p. 579, ch. 337.

Emergency. Effective June 2, 1951.

CHAPTER TWENTY—TEACHERS' RETIREMENT

Article 2922—1. Teachers' Retirement System

Definitions

Section 1.

(19). "Prior Service Annuity" shall mean payment each year for life of three (3%) per centum of a member's average prior service compensation (as defined by this Act) multiplied by the number of years of Texas service certified in his Prior Service Certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36) years, and in computing his average prior service compensation, the maximum prior service salary shall be Three Thousand (\$3,000.00) Dollars. All prior service annuities shall be payable in equal monthly installments. As amended Acts 1951, 52nd Leg., p. 257, ch. 152, § 1.

Benefits

Sec. 5.

1. Service Retirement Benefits.

Any member may retire upon written application to the State Board of Trustees. The effective date of retirement for any member, making application under this Act, shall be, at the option of said member, forthwith or as of the end of the school year then current, provided that the said member at the time so specified for his retiring shall have attained the age of sixty (60) years and shall have completed twenty (20) years of creditable service in Texas; provided that a member who leaves the service after completing twenty-five (25) years of creditable service shall be eligible for retirement upon attaining the age of sixty (60) years if said member is then living and if he shall not have withdrawn his contributions; and provided further, that any member with thirty (30) years of creditable service may retire at any time regardless of age attained. 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 retirement benefits under the terms of the Teacher Retirement System of Texas may be employed in the Public Schools of Texas; provided however, that during said time a retired member is so employed, retirement benefit payments that would otherwise have been paid to said retired member shall be suspended and shall be resumed again when said retired member leaves said employment; provided further, that during the time said retired member is so employed that no retirement deductions shall be made from his salary, and that retirement benefits to be paid to said retired member after employment is discontinued and retirement benefits are resumed shall be paid in the same amount as were paid to said retired member on the original retirement; provided further, that during the time that said retired member is so employed both the membership annuity payments and the prior service annuity payments to which said retired member would have been entitled had he not so returned to employment, shall be transferred to the State Membership Accumulation Fund of Teacher Retirement System of Texas. As amended Acts 1951, 52nd Leg., p. 1486, ch. 502, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

2. Allowance for Service Retirement.

(b) If he has a prior service certificate in full force and effect, the prior service annuity shall be three (3%) per centum of his average prior service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior service certificate; except that for the first sixty (60) days from and after the passage of this Act, the prior service annuity shall be computed on the basis of two (2%) per centum of his average prior service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior service certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36) years and that in computing his average prior service compensation, the maximum prior service salary shall be Three Thousand (\$3,000.00) Dollars; provided that the State Board of Trustees shall have an actuarial and statistical study made at least once every five (5) years showing annual trends. It is expressly provided that monthly payments, payable sixty (60) days or more after the passage of this Act, under prior service annuities which became effective prior to the passage of this Act, or which became effective within sixty (60) days from and after the passage of this Act, shall be computed on the same basis and in the same manner as monthly payments under prior service annuities for members whose retirement is effective later than sixty (60) days after the effective date of this amending Act. Upon the recommendation of the actuary, the State Board of Trustees shall have the power to reduce proportionately all payments for prior service annuities at any time and for such period of time as is necessary so that the payment to beneficiaries for prior service annuities in any biennium shall not exceed the available assets for payments of prior service annuities in such biennium. As amended Acts 1951, 52nd Leg., p. 257, ch. 152, § 2.

Emergency. Effective May 10, 1951.

Section 6 of the amendatory Act of 1951, ch. 152, provided that if any section or part of a section was declared unconstitutional the remainder of the act should not thereby be invalidated.

Prior service credits of teachers executing waivers

Acts 1951, 52nd Leg., p. 858, ch. 483, reads as follows:

"Section 1. Any teacher who heretofore executed a waiver in the Teacher Retirement System and who was teaching in the public schools of Texas during the school year commencing September 1, 1950, shall have the privilege of electing to receive full credit for teaching experience in Texas prior to the year 1937, provided said teacher within a period of five (5) years from September 1, 1951, shall deposit with the Teacher Retirement System of Texas, at Austin, Texas, all back assessments and dues commencing with the school year, September 1, 1937, together with simple interest thereon at two and one half per cent (2½%) per annum from the date that each amount was payable. Amount to be

deposited by each teacher shall be determined by the Teacher Retirement System, based upon the number of years actually taught by said teacher since 1937 and salary received. All deposits made by each individual teacher shall be matched by an equal sum by the State of Texas, as now provided in the Teacher Retirement Law for matching the deposits of members of the Teacher Retirement System.

"Sec. 2. There is hereby appropriated and allocated to the Teacher Retirement System of Texas from the operating fund of the Teacher Retirement System the sum not to exceed Six Thousand Dollars (\$6,000), for the purpose of employment of additional personnel as may be necessary to carry into effect the provisions of this Act.

"Sec. 3. All laws, or parts of laws, in conflict herewith are hereby repealed."

Effective 90 days after June 8, 1951, date of adjournment.

Retirement of members of Teachers Retirement System and Employees Retirement System on joint creditable service, see art. 6223c—1.

CHAPTER TWENTY-ONE—EDUCATIONAL SERVICES FOR EXCEPTIONAL CHILDREN

Arts. 2922—2 to 2922—8. Repealed. Acts 1951, 52nd Leg., p. 65, ch. 39,
§ 2. Eff. 90 days after June 8, 1951, date of adjournment

Exceptional children, see art. 2922—13, §
1(4).

CHAPTER TWENTY-TWO—FOUNDATION SCHOOL PROGRAM

Art.
2922—23. Extension of boundaries of city
[New].

Art. 2922—13. Units

Professional units

Section 1.

(4) **Exceptional Children Teacher Units.** Exceptional children teacher units, special or convalescent, for each school district, separate for whites and separate for negroes, shall be allotted as follows:

a. It is the purpose of this allotment of exceptional children teacher units to provide competent educational services for the exceptional children in Texas between and including the ages of six (6) and seventeen (17), for whom the regular school facilities are inadequate or not available.

In interpreting and carrying out the provisions of this Act, the words "exceptional children" wherever used, will be construed to mean physically handicapped children and mentally retarded children; the words "physically handicapped children" wherever used, will be construed to include any child of educable mind whose bodily functions or members are so impaired that he cannot be safely or adequately educated in the regular classes of the public schools, without the provision of special services, but shall not include those children who are eligible for the State Schools for the Deaf, the Blind or the Feebleminded; and the words "mentally retarded children" wherever used, will be construed to include any child of educable mind whose mental condition is such that he cannot be adequately educated in the regular classes of the public schools, without the provision of special services. The term "special services" may be interpreted to mean transportation; special teaching in the public school curriculum; corrective teaching, such as lip reading, speech correction, sight conservation, and corrective health habits; and the provision of special seats, books and teaching supplies and equipment required for the instruction of exceptional children. As amended Acts 1951, 52nd Leg., p. 323, ch. 197, § 1.

b. In any school district where the parents of the required number of any type of exceptional children, or types which may be taught together, petition the Board of Education of that district for a special class, it shall be the duty of such Board to request the State Commissioner of Education to cooperate in the establishment of such class or classes. The State Commissioner of Education shall allot to such district such number of exceptional children teacher units to operate special or convalescent classes for exceptional children within said district pursuant to rules and regulations adopted by the State Board of Education. Provided that districts not eligible for a full exceptional children teacher unit may enter, by vote of their respective Boards of Trustees, into one

cooperative agreement to provide exceptional children teacher units, such units to be approved by the County School Superintendent. The teacher for an exceptional children teacher unit shall be employed by the Board of Trustees of the district in which the class is to be taught, and such unit shall be administered solely and exclusively by the Superintendent of such district. The State Commissioner of Education, upon certification of such agreement by the County School Superintendent, shall allot to each district party to such agreement a fractional part of an exceptional children teacher unit, provided that the sum of such units so allotted shall not be greater than the number of units for which said district would be eligible provided no cooperative agreement existed.

c. There is hereby created in the State Department of Education a Division of Special Education. There shall be appointed by the State Commissioner of Education a Director for the Division of Special Education. No person shall be employed to teach any class for exceptional children as defined in this Act unless he possesses a valid teachers certificate and, in addition thereto, such training as the State Commissioner of Education may require.

Provided that allotments for exceptional children teacher units provided for herein shall be made in addition to other professional unit allotments. As amended Acts 1951, 52nd Leg., p. 65, ch. 39, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the amendatory Act of 1951, ch. 39, repealed acts 2922—2 to 2922—8.

Section 2 of the amendatory Act of 1951, ch. 197, repealed conflicting laws or parts of laws to the extent of the conflict only.

Art. 2922—15. Services and operating costs

Services, transportation

Sec. 2. The County Boards of School Trustees of the several counties of this State, subject to the approval of the State Commissioner of Education, are hereby authorized to establish and operate an economical public school transportation system within their respective counties. In establishing and operating such transportation systems, the County Boards of School Trustees shall: (1) requisition buses and supplies from the State Board of Control as provided for in this Article; (2) prior to June 1st of each year, with said Commissioner's approval, establish school bus routes within their respective counties for the succeeding school year; (3) employ school bus drivers; and (4) be responsible for the maintenance and operation of school buses. State warrants for transportation shall be made payable to the County School Transportation Fund in each county for the total amount of transportation funds for which the county is eligible under the provisions of this Act.

Provided, however, that when requested by the Board of Trustees of an independent school district, the County Board of School Trustees shall authorize such independent district to: (1) employ its school bus drivers; (2) be responsible for the maintenance and operation of its school buses; and (3) receive transportation payments direct from the State. When the County School Superintendent reports such authorization to the State Commissioner of Education, state warrants for transportation funds for which the district is eligible shall be made to the district Transportation Fund, which is hereby created.

The County Boards of School Trustees and the State Commissioner of Education shall promulgate regulations in regard to the use of school buses for purposes other than transporting eligible pupils to and from their classes.

School buses shall be operated upon approved school bus routes, and no variations shall be made therefrom. The penalty for varying from au-

thorized routes and for unauthorized use of buses shall be the withholding of transportation funds from the offending county or school district. In the event the violation is committed by a district which receives no Foundation School Funds, the penalty provisions of Article XI, Section 2, of Senate Bill No. 116, Acts of the 51st Legislature,¹ shall be invoked.

The total annual transportation cost allotment for each district or county shall be based on the following formula, except that the amount allocated to any district or county shall not exceed the 1949-50 approved costs by more than ten (10%) per cent unless the State Commissioner of Education shall have approved additional equipment, additional routes, and/or larger buses, for said district or county:

(a) A typical bus route is defined as being from forty-five (45) to fifty-five (55) miles of daily travel and composed of sixty (60%) per cent surfaced roads and forty (40%) per cent dirt roads, over which fifteen (15) or more pupils who live two (2) or more miles from school are transported.

(b) Allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus shall be:

72 capacity bus	\$2,350.00 per year
60-71 capacity bus	2,250.00 per year
49-59 capacity bus	2,150.00 per year
42-48 capacity bus	2,050.00 per year
30-41 capacity bus	1,950.00 per year
20-29 capacity bus	1,850.00 per year
15-19 capacity bus	1,450.00 per year

The capacity of a bus shall be interpreted as the number of eligible children being transported who live two (2) or more miles from school along the approved route served by the bus. A bus that makes two (2) or more routes or serves two (2) or more schools shall be considered as having a capacity equal to the largest number of eligible children on the bus at any one time.

(c) For each one (1%) per cent increase of dirt road above forty (40%) per cent, add one-half ($\frac{1}{2}\%$) per cent to the allowable total cost.

(d) For each five (5) miles or major fraction thereof increase in daily bus travel above fifty-five (55) miles add one (1%) per cent of the total cost of operation. For each five (5) miles or major fraction thereof less than forty-five (45) miles daily travel, deduct one (1%) per cent from the total cost of operation.

(e) To institute the formula for financing transportation in Texas as provided in this Act,² the basic allocation to each transportation unit shall be based upon the number of approved buses operating upon approved routes as of January 1, 1950.

(f) The State Commissioner of Education may grant not to exceed Seventy-five (\$75.00) Dollars per pupil per year for private or commercial transportation for eligible pupils from isolated areas. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. Such grants shall be made only in extreme hardship cases and no such grants shall be made if such pupils live within two (2) miles of an approved school bus route or city public transportation services.

All bus routes and transportation systems shall be reviewed by the State Commissioner of Education and he shall be responsible for establishing criteria for evaluating the several transportation systems of this State, but all such criteria shall be subject to the approval of the State Board of Education. The Commissioner shall evaluate all transportation

systems as rapidly as possible. No new bus routes or bus route extensions shall be approved prior to the survey of the transportation system of the district or county requesting new equipment or extensions. In cities having public transportation, no child residing within the city limits of such city shall be eligible to be transported at State expense unless such child resides more than two (2) miles, measured by the nearest practical route, from public transportation service of such city.

In approving a transportation system for a district or a county, consideration shall be given to providing transportation for only those pupils who live two (2) or more miles from the school they attend, and no consideration shall be given to providing transportation for pupils from one district to another when their grades are taught in their home districts unless the transfer of such pupils has been approved by the County Boards of School Trustees as provided by law. There shall be no duplication of bus routes or duplication of services within sending districts by buses operated by two (2) school districts and/or counties except upon approval by the Commissioner of Education. All funds paid to the several transportation units for the operation of transportation systems of this State shall be expended for no other purpose. The Commissioner of Education shall formulate rules and regulations for enforcing the transportation sections of this Act, subject to the approval of the State Board of Education. Appeals may be had from policies of County Boards of Trustees affecting transportation to the Commissioner of Education, and to the State Board of Education in matters relating thereto.

Motor vehicles used for the purpose of transporting school children, including school buses, chassis and/or bodies of school buses purchased through the State Board of Control as provided for in Section 3 of this Act³ shall be paid for by the State Board of Control and there is hereby appropriated out of any money in the State Treasury not otherwise appropriated, a sum of Two Hundred Fifty Thousand (\$250,000.00) Dollars or so much thereof as necessary, to the State Board of Control to be used for such purchases.

The Two Hundred Fifty Thousand (\$250,000.00) Dollars hereby appropriated shall be known as the School Bus Revolving Fund and when the school buses provided for in this Act are delivered to the various schools coming within the provisions of this Act, the governing bodies of such schools shall reimburse the State Board of Control for the money expended for such school buses, motor vehicles, chassis and/or bus bodies provided for herein and such money shall be deposited by the State Board of Control to the School Bus Revolving Fund. As amended Acts 1951, 52nd Leg., p. 325, ch. 198, § 1.

¹ Article 2922—21.

² Article 2922—1 et seq., 634(B).

³ Probably means article 634(B).

Emergency. Effective May 17, 1951.
Section 2 of the amendatory Act of 1951,
provided that if any portion of this Act

is held invalid by a court of competent jurisdiction, the remaining provisions hereof shall, nevertheless, be valid.

Art. 2922—23. Extension of boundaries of city

The extension of the boundaries of a city for city purposes only after the effective date of Senate Bill No. 116, Chapter 334, Acts of the 51st Legislature, Regular Session, 1949¹, so as to include within the boundaries of such city part of a school district into which public transportation lines or facilities are operated, shall not affect the eligibility of such school district for transportation aid under the provisions of said Senate Bill No. 116. All such districts shall be entitled to receive transportation aid under the provisions of said Senate Bill No. 116, if other-

wise qualified, including transportation aid for the scholastic year ending in 1951, to the same extent that such district would have been eligible if part thereof had not been annexed by such city and such public transportation lines were not operated into the same. Acts 1951, 52nd Leg., p. 343, ch. 215, § 1.

¹ Article 2922—11 et seq.

Emergency. Effective May 17, 1951.

*

ELECTION CODE

CHAPTER 492—H. B. NO. 6

An Act to adopt and establish an election code for the State of Texas, to revise and recodify Title 50 of the Revised Civil Statutes of 1925 of Texas, and all amendments thereto, to repeal all Acts in conflict herewith, provided, however, that nothing in this Act shall be construed as repealing or in any way affecting the legality of any penal provision of the existing law, and further provided that nothing in this Act shall in any wise alter, amend, or repeal House Bill No. 43, Acts, Regular Session, Fifty-second Legislature; providing a saving clause; providing an appropriation; providing the effective date; and declaring an emergency.

Whereas, it is expedient that the Election Code of this State should be arranged in appropriate chapters and sections, and that the whole should, as far as practicable, be made concise, clear and consistent; therefore

Analysis.

Chap.		Art.
1.	Miscellaneous Provisions	1.01
2.	Time and Place	2.01
3.	Officers of Election	3.01
4.	Ordering Elections	4.01
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CHAPTER ONE

MISCELLANEOUS PROVISIONS

- Art.
- 1.01. Design of the Code.
 - 1.02. County judge failing to act.
 - 1.03. Blanks furnished.
 - 1.04. To certify death of officer.
 - 1.05. Ineligibility.
 - 1.06. Ineligibility bars.
 - 1.07. Injunction may issue.
 - 1.08. Commencement of term of office.

Article 1.01. Design of the Code

The aim in adopting this Code is to state in plain language the laws governing the nomination and election of officers and of holding other elections, to simplify, clarify and harmonize the existing laws in regard to parties, suffrage, nominations, and elections, and to safeguard the purity

of the ballot box against error, fraud, mistake and corruption, to the end that the will of the people shall prevail and that true democracy shall not perish from the Lone Star State. To that end the provisions of this Code shall apply to all elections and primaries held in this State, except as otherwise provided herein. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 1.

Art. 1.02. County judge failing to act

Whenever, by this title, any duty is devolved upon a county judge, and that office is vacant, or such officer from any cause fails to perform such duty, any two (2) or more of the county commissioners of the county may and shall perform such duty. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 2.

Art. 1.03. Blanks furnished

At least thirty days before each general election the Secretary of State shall prescribe forms of all blanks necessary under this Code and shall furnish same to each county judge. The Secretary of State shall at the same time certify to each county clerk a list of all the candidates who have been nominated for state office and for district office where the district consists of more than one county, if said district nominees have not been certified directly to the county clerk. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 3.

Art. 1.04. To certify death of officer

When any state or district officer, member of Congress, or member of the Legislature shall die, the county judge of the county where such death occurs or of the county where such officer resided, shall immediately certify the fact of the death of such officer to the Secretary of State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 4.

Art. 1.05. Ineligibility

No person shall be eligible to any State, county, precinct or municipal office in this State unless he shall be eligible to hold office under the Constitution of this State, and unless he shall have resided in this State for the period of twelve (12) months and six (6) months in the county, precinct, or municipality, in which he offers himself as a candidate, next preceding any general or special election, and shall have been an actual bona fide citizen of said county, precinct, or municipality for six (6) months. No person ineligible to hold office shall ever have his name placed upon the ballot at any general or special election, or at any primary election where candidates are selected under primary election laws of this State; and no such ineligible candidate shall ever be voted upon, nor have votes counted for him at any such general, special, or primary election. No person, who advocates the overthrow by force or violence or the change by unconstitutional means of the present constitutional form of government of the United States or of this State, shall be eligible to have his name (or hers) printed on any official ballot in any general, special, or primary election in this State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 5.

Art. 1.06. Ineligibility bars

Neither the Secretary of State nor any county judge of this State, nor any other authority authorized to issue certificates, shall issue any certificates of election or appointment to any person elected or appointed to any office in this State, who is not eligible to hold such office under the Constitution of this State and under the above Section; and the name of no ineligible person, under the Constitution and laws of this State shall

be certified by any party, committee, or any authority authorized to have the names of candidates placed upon the primary ballots at any primary election in this State; and the name of no ineligible candidate under the Constitution and laws of this State shall be placed upon the ballot of any general or special election by any authority whose duty it is to place names of candidates upon official ballots. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 6.

Art. 1.07. Injunction may issue

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 voter, to enforce the provisions of the above two (2) sections and to protect thereunder the rights of all parties and the public; for such purpose, jurisdiction and authority is conferred upon all district courts of this State and all cases filed hereunder shall have first right of precedence 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. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 7.

Art. 1.08. 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 1951, 52nd Leg., p. 1097, ch. 492, art. 8.

CHAPTER TWO

TIME AND PLACE

Art.

- 2.01. Time and Place.
- 2.02. In cities and towns.
- 2.03. Held in public buildings.
- 2.04. Election precincts formed.
- 2.05. Precincts in cities and towns.
- 2.06. Where to vote.

Article 2.01. Time and Place

A general election shall be held on the first Tuesday after the first Monday in November, A. D. 1952, and every two (2) years thereafter, at such places as may be prescribed by law after notice as prescribed by law. Special elections shall be held at such times and places as may be fixed by law providing therefor. In all elections, general, special, or primary, the polls shall be open from seven o'clock a.m. to seven o'clock p.m. in all counties having a population of one hundred thousand (100,000) or more according to the last Federal Census and in all other counties the polls shall be opened at 8 a.m. and remain open until 7 p.m. The election shall be held for one (1) day only. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 9.

Art. 2.02. In cities and towns

All provisions of this Code which prescribe qualifications for voting and which regulate the holding of elections shall apply to elections in cities and towns. The deadline for filing to get one's name on the ballot in elections in cities and towns shall be thirty (30) days before the date of the election. In towns or cities incorporated under the general laws, the governing body may provide for city or town elections that there shall be one or more polling places; and, in such case, the certified list of poll taxpaying voters for all election precincts in which voters reside who are to vote at any such polling place shall be used therefor. In all cities and towns in which the number of electors at the last municipal election does not exceed four hundred (400) in number, but one election poll shall be opened at any municipal election; and all officers of such towns and cities to be elected shall be voted for at such poll. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 10.

Art. 2.03. Held in public buildings

In all cases where it is practicable so to do, all elections—general, special, or primary—shall be held in some school house, fire station or other public building within the limits of the election precinct in which such election is being held. No charge shall be made for the use of such building, except that any additional expense actually incurred by the authorities in charge of such building on account of the holding of the election therein shall be repaid to them by the party who would be liable for the expenses of holding the election under the existing law. If there be no public building so available, such election may be held in some other building. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 11.

Art. 2.04. Election precincts formed

Each commissioners court may, if they deem it proper, at each July or August term of the court, divide their respective counties into convenient election precincts, each of which shall be differently numbered and described by natural or artificial boundaries or survey lines by an order to be entered upon the minutes of the court. They shall immediately thereafter publish such order in some newspaper in the county for three (3) consecutive weeks. If there be no newspaper in the county, then such copy of such order shall be posted in some public place in each precinct in the county. No election precinct shall be formed out of two (2) or more justice precincts or commissioners precincts, nor out of the parts of two (2) or more justice precincts or commissioners precincts. The commissioners court shall cause to be made out and delivered to the county tax collector before the first day of each September a certified copy of such last order for the year following. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 12.

Art. 2.05. Precincts in cities and towns

The commissioners court, in establishing new election precincts, shall divide any city or town into as many election precincts as they may see proper, none of which shall have resident therein more than two thousand (2,000) voters as ascertained by the vote of the preceding general city or town election. Every ward in every incorporated city, town or village shall constitute an election precinct, unless there shall have been cast in said ward, at the last general city or town election held therein, more than two thousand (2,000) votes. Cities and towns, and towns and villages incorporated under the general laws shall not necessarily constitute election precincts. No precinct shall be made out of parts of two

(2) wards. This Section shall not apply to cities, towns and villages of less than ten thousand (10,000) inhabitants; and, in such cities, towns and villages, the justice precincts in which said cities, towns and villages are situated may be divided into election precincts without regard to the wards of such cities, towns and villages, and without reference to the number of votes to be cast. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 13.

Art. 2.06. Where to vote

All voters shall vote in the election precinct in which they reside. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 14.

CHAPTER THREE

OFFICERS OF ELECTION

Art.

- 3.01. In small precincts.
- 3.02. In large precincts.
- 3.03. Qualifications.
- 3.04. Disqualifications.
- 3.05. Appointed supervisors.
- 3.06. Agreed supervisors.
- 3.07. Selection of supervisor for election precinct; qualifications and duties.
- 3.08. Pay of judges and clerks.
- 3.09. Precinct judges served.

Article 3.01. In small precincts

The Commissioners Court at the February term shall appoint from among the citizens of each voting precinct in which there are less than one hundred (100) voters who have paid their poll tax or received their certificates of exemption, two (2) reputable qualified voters as judges of the election, selected from different political parties, if practicable, who shall continue to act until their successors are appointed. When the bounds of the precinct are changed so that one or more judges reside outside of the precinct for which they were appointed, the court shall appoint others to fill such vacancy or vacancies. One of the judges who shall, in all cases belong to the party that at the last general election cast the largest vote for Governor throughout the State shall be designated as the presiding judge at elections; he shall appoint two (2) competent and reputable qualified voters of different political parties if practicable, to act as clerks of the election. The order appointing all judges shall be entered of record. The presiding judge shall act in receiving and depositing the votes in the ballot boxes, and the other judges shall act in counting the votes cast; one clerk shall keep the poll list of qualified voters, and upon the poll list he shall write at the time of voting the name of each voter; the other clerk shall act as canvassing clerk, and shall keep the tally list of votes counted. Said officers shall perform such other duties as the presiding judge may direct. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 15.

Art. 3.02. In large precincts

For every precinct in which there are one hundred (100) citizens or more who have paid their poll tax or received their certificates of exemption, the Commissioners Court shall appoint four (4) judges of elec-

tion, who shall be chosen when practicable from opposing political parties, one of whom shall be designated as presiding judge. The presiding and one associate judge shall act in receiving and depositing the votes in the ballot box, and the other two (2) judges shall act in counting the votes cast. The presiding judge shall appoint four (4) competent and reputable clerks, and as many other clerks as may be authorized by the Commissioners Court, who have paid their poll tax, or have secured their exemptions, and of different political parties, when practicable; two (2) of said clerks shall assist in keeping poll lists and the list of qualified voters; upon the poll list they shall write the name of each voter at the time voted. Two (2) clerks shall be canvassing clerks, who shall keep tally list of votes counted and perform such other duties as the presiding judge may direct. At the close of the canvassing and during its progress, the tally clerks shall compare their tally lists and certify officially to their correctness. They shall perform such other duties as the presiding judge may direct. Provided, that in all elections held under the provisions of this title, other than general elections, local option elections and primary elections, the officers to be appointed by the Commissioners Court to hold said elections shall be a presiding judge, and assistant judge and two (2) clerks, whose compensation shall be Five Dollars (\$5) per day, and Two Dollars (\$2) extra to the presiding judge for making return of the election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 16.

Art. 3.03. Qualifications

All supervisors, judges and clerks of any general or primary election shall be qualified voters of the election precinct in which they are named to serve. No person shall serve as a judge or a clerk in any election, general, special, or primary, who is employed by any candidate for a lucrative office, whose name appears on the ballot in that election, or who is related to such candidate within the third degree either by affinity or consanguinity. But nothing herein shall prevent a precinct committeeman or chairman from acting as judge or clerk at an election at which he is a candidate for precinct committeeman or chairman. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 17.

Art. 3.04: Disqualifications

No one who holds an office of profit or trust under the United States or this State, or in any city or town in this State, or within thirty (30) days after resigning or being dismissed from any such office, except a notary public, or who is a candidate for office, or who has not paid his poll tax or secured an exemption certificate, shall act as judge, clerk, or supervisor of any election, general, special or primary. Nor shall anyone act as chairman or as member of any district, county, or city executive committee of a political party who has not paid his poll tax, or secured his exemption certificate, or who is a candidate for office, or who holds any office of profit or trust, either under the United States or this State, or any city or town in this State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 18.

Art. 3.05. Appointed supervisors

The chairman of the county executive committee for each political party that has candidates on the official ballot, or if he failed to act, any three (3) members of such committee, may, not less than five (5) days before the general election, nominate one supervisor of election for each voting precinct, who has paid his poll tax, or who has secured his certificate of exemption, by presenting to said supervisor a written certifi-

cate of his nomination. Thereupon, on his presenting such nomination to the presiding judge of the precinct, he shall be permitted to sit conveniently near the judges, so that he can observe the conduct of the election, including the counting of the votes, the making out of the returns, the locking and sealing of the ballot boxes, their custody and safe return. He shall not be permitted to enter into any conversation with the judges or clerks regarding the election while it is progressing, except to call the attention of the judges or clerks to any irregularity or violation of the law that he may observe. Such supervisor shall call the attention of officers holding such election to any fraud, irregularity or mistake, illegal voting attempted, or legal voting prevented, or other failure to comply with law governing such election at the time it occurs, if practicable, and if he has knowledge thereof at the time. Before he shall be permitted to act as supervisor, he shall take an oath, to be administered by the presiding judge, that he will mention and note any errors he may see in testing or counting the votes or making out the returns, and that he will well and truly discharge his duties as supervisor impartially, and will report in writing all violations of the law and irregularities that he may observe to the Commissioners Court and, if he deems it desirable, to the next grand jury. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 19.

Art. 3.06. Agreed supervisors

Any five (5) or one-fifth ($\frac{1}{5}$) of the candidates, whichever is less, whose names appear on the official ballot of any general, special, or primary election, on the day preceding the election or prior thereto may agree in writing signed by them upon two (2) supervisors who, when selected, shall be sworn as election officers. Said supervisors shall be qualified voters of the county in which they may serve as such supervisors, and while the election is being held shall remain in view of the ballot boxes until the counting is concluded. It shall be their duty to be present at the marking of the ballot of any voter, by the judge of said election, not able to mark his own ballot, to see that said ballot is marked in accordance with the wishes of the voter, and to see that each ballot is correctly called. Said supervisor shall note any fraud or irregularity occurring and report the same as provided in Section 19. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 20.

Art. 3.07. Selection of supervisor for election precinct; qualifications and duties

Upon petition of forty (40) qualified voters or five per cent (5%) of the qualified voters, whichever is the lesser number in any election precinct, the chairman of the county executive committee or any three (3) members of such committee shall not less than five (5) days before any general, special, or primary election select a supervisor for such election precinct who, when selected, shall be sworn as an election officer. Said supervisor shall be a qualified voter in that particular election precinct and shall be selected from the list of voters signing such petition. These supervisors shall take the oath and perform the duties as provided for in Section 19 and Section 20 [arts. 3.05, 3.06]. The supervisor appointed by virtue of the provisions of this Act shall be compensated by the citizens upon whose petition they were appointed. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 21.

Art. 3.08. Pay of judges and clerks

The pay of judges and clerks of general and special elections shall be determined by the Commissioners Court of the county where such services are rendered, and in primary elections by the County Executive Com-

mittee of the party conducting such primary election, but same shall not exceed Ten Dollars (\$10) a day for each judge or clerk, nor exceed One Dollar (\$1) per hour each for any time in excess of a day's work as herein defined. The judge who delivers the returns of election immediately after the votes have been counted shall be paid Two Dollars (\$2) for that service; provided, also, he shall make returns of all election supplies not used when he makes returns of the election. Ten (10) working hours shall be considered a day within the meaning of this Article. The compensation of judges and clerks of general and special elections shall be paid by the County Treasurer of the county where such services are rendered upon order of the Commissioners. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 22.

1951 Amendment.

Former art. 2943 of Vernon's Ann.Civ.St., from which art. 3.08 of the Election Code was derived, was amended by Acts 1951, 52nd Leg., p. 535, ch. 313, § 1, to read as follows:

"The pay of judges and clerks of general and special elections shall be determined by the Commissioners Court of the County where such services are rendered; but same shall not exceed Eight (\$8.00) Dollars a day for each judge or clerk, nor exceed One (\$1.00) Dollar per hour each for any time in excess of a day's work as herein defined. The judge who delivers the returns of election immediately after the votes have been counted shall be paid Two (\$2.00) Dollars for that service; provided also, he shall make returns of all election supplies not used when he makes return of the election. Ten (10) working hours shall be considered a day within the meaning of this Article. The compensation of judges and clerks of general and special elections shall be paid by the County Treasurer of the county where such services are rendered upon order of the Commissioners."

Art. 2943 was repealed by the Election Code, Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 248 [art. 14.12], effective January 1, 1952, with saving clause in art. 247 [art. 14.11] that nothing in such Act shall be construed to nullify or repeal any Act passed at the Regular Session of the 52nd Legislature, 1951.

Art. 3.09. Precinct judges served

Precinct judges for all general elections shall be served with copies of the order of the Commissioners Court properly certified to by the clerk of the said court, designating the number, name and bounds of the election precinct and of their appointment as judges. Such service shall be made by the clerk of said court by registered mail within twenty (20) days after the entry of the order. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 23.

CHAPTER FOUR

ORDERING ELECTIONS

Art.

- 4.01. Proclamation by Governor.
- 4.02. Order by county judge.
- 4.03. Writs of election.
- 4.04. Failure to order.
- 4.05. Notice of election.
- 4.06. Municipal elections.
- 4.07. Election of judges and clerks and appointment of supervisors of elections in cities of four hundred thousand (400,000) to four hundred and eighty thousand (480,000) population—number and compensation.
- 4.08. In case of a tie.
- 4.09. Special elections to fill vacancies in public offices.
- 4.10. Vacancy: Application to get on ballot.

Article 4.01. Proclamation by Governor

Notice shall be given to the people of all elections for State and district officers, electors for President and Vice-president of the United States, members of Congress, members of the Legislature, and all officers who are elective every two (2) years. Such notices shall be by proclamation by the Governor ordering the election, not less than thirty-five (35) days before the election, issued and mailed to the several county judges. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 24.

Art. 4.02. Order by county judge

The county judge, or if his office is vacant or if he fails to act, then two (2) of the county commissioners, shall order an election for county and precinct officers, and all other elections which under the law the county judge may be authorized to order. The county judge or county commissioners, as the case may be, shall issue writs of election ordered by him or them, in which shall be stated the day of election, the office or offices to be filled by the election or the question to be voted on, or both, as the case may be. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 25.

Art. 4.03. Writs of election

The writs of election and copies of the form of returns shall be delivered to the sheriff of the county, who shall, previous to the day of election, deliver the same to the presiding officer of each election precinct in which any general or special election is ordered to be held, and in case there is no presiding officer in any such election precinct, the same shall be delivered to the qualified voter of such election precinct who resides at or nearest to the voting place in such precinct. The county judge shall fifteen (15) days before any general or special election notify each presiding judge in writing of his duty to hold said election in that precinct. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 26.

Art. 4.04. Failure to order

A failure from any cause, on the part of the Governor, or the county judge or commissioners court, or of both, to order or give notice of any general election shall not invalidate the same if otherwise legal and regular. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 27.

Art. 4.05. Notice of election

The county judge shall cause notice of a general election or any special election to be published by posting notice of election at each precinct twenty (20) days before the election; which notice shall state the time of holding the election, the office to be filled, or the question to be voted on; provided, that in local option, stock law and road tax elections, or any other special election specially provided for by the laws of this State, the notices of election shall be given in compliance with the laws governing said elections respectively. If a vacancy occurs in the State Senate or House of Representatives during the session of the Legislature, or within ten (10) days before it convenes, then twenty (20) days notice of a special election to fill such vacancy shall be sufficient. Posting notice of an election shall be made by the sheriff or a constable, who shall make return on a copy of the writ, how and when he executed the same. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 28.

Art. 4.06. Municipal elections

In all city, town and village elections, the mayor, or if he fails to do so, then the governing body shall order elections pertaining alone to municipal affairs, give notice and appoint election officers to hold the election, unless a different method be prescribed by the charter of such city, town or village; but, in all cases, supervisors may be selected as in general elections, and judges and clerks shall each be selected from different political parties when practicable. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 29.

Art. 4.07. Election of judges and clerks and appointment of supervisors of elections in cities of four hundred thousand (400,000) to four hundred and eighty thousand (480,000) population—number and compensation

Section 1. All elections for the election of city officers in all cities in this State having a population in excess of four hundred thousand (400,000) and less than four hundred and eighty thousand (480,000) for the last preceding Federal Census or any future Federal Census shall be held by election officers elected in the following manner:

(1) The election officers in all such elections shall be elected by the mayor and commissioners by ordinance duly adopted in open meeting not less than ten (10) days before an election and shall be qualified voters of said city and of the precinct in which they are to serve.

(2) There shall be elected not more than two (2) judges and two (2) clerks in precincts having less than two hundred (200) qualified voters, and not more than two (2) judges and four (4) clerks in precincts having more than two hundred (200) qualified voters. The number of qualified voters in each precinct and the qualifications of voters for the purposes of this Act shall be determined from the poll tax list prepared by the county tax collector of the county in which such city is situated for the year ending January 31st next preceding such election.

(3) Any local political party desiring the appointment of persons as judges and clerks in any such city election shall file with the city clerk of said city, fifteen (15) days before said election is to be held, one list of prospective judges and clerks, giving the name, street address, and precinct number of each person. Each list shall name not more than five (5) qualified voters of each precinct and shall be signed by the candidate for mayor or two (2) candidates for commissioner of the local party proposing same. Each such list shall be filed with the city clerk and preserved by the city clerk for a period of ten (10) years as one of

the records of his office, and shall be open at all times for public inspection. The mayor and commissioner shall elect an equal number of judges and clerks for each precinct from each of said lists so filed by the different political parties so as to give equal representation to each local political party, whenever the number of names submitted by each of the local political parties is sufficient for this purpose. Whenever the number of local political parties is such that an exact division cannot be made of the judges and clerks in each precinct, then equal representation shall be given in all precincts where it is possible and some representation is to be given each party in all other precincts where it is possible, with preference to the parties in the order in which the lists are filed with the city clerk. For the purpose of this Act a "local political party" shall be held to include any candidate for mayor when he is running independently or any two (2) candidates for commissioner when they are running independently, or the candidates for mayor and commissioner who are running on the same ticket, provided that the candidate or candidates file with the city clerk thirty (30) days before the election a petition or petitions signed by five hundred (500) qualified voters endorsing their candidacy. The signatures to such petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving street and number. One of the signers of each paper shall make oath before some officer authorized to administer oaths, that each signature to the paper appended is the genuine signature of the person whose name it purports to be, and a copy of such petition when certified to by the city clerk shall be admissible in evidence in any court and be prima-facie proof that the signatures appearing thereon are the genuine signatures of the persons whose names they purport to be. Within five (5) days from the date of filing of such petition the city clerk shall examine the same and from the list of qualified voters of the city, heretofore mentioned, ascertain whether or not said petition is signed by the requisite number of qualified voters, and he shall attach to said petition his certificate showing the result of such examination stating the number of qualified voters found upon said petition, and the number of persons not qualified to vote. In checking said petition the city clerk shall designate the names of persons found thereon not qualified to vote, with the letters: "D. V." in red ink, opposite such name or names. If by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten (10) days from the date of said certificate. The clerk shall within five (5) days after such amendment is filed with him, make a like examination and check off the names thereon and if his certificate shall show the same to be insufficient, it shall be returned to the candidate filing the same without prejudice, however, to the filing of a new petition to the same effect, provided the new petition be filed not later than thirty (30) days before the date of the election.

(4) When at any time there has been only one list of prospective judges and clerks filed with the city clerk by a local political party, or if at any time only one of the lists so filed contains the names of qualified voters residing in a particular precinct, then any forty (40) qualified voters of any such precinct may sign a petition, giving their names, and street addresses, and file same with the city clerk five (5) days before said election, submitting the names of five (5) qualified voters of said precinct as election officers and the mayor and commissioner shall, two (2) days before such election elect one (1) judge and one (1) clerk from the five (5) names so submitted in said petition. The petition shall be sworn to by one of the signers to the effect that all signatures appearing thereon are the signatures of the persons whose names they purport to be and a copy of any such list when certified to by the city clerk shall be admis-

sible in evidence in any court and by prima-facie proof that the signatures appearing thereon are the genuine signatures of the persons whose names they purport to be.

(5) If at any time the list or lists of persons filed with the city clerk fails to name a sufficient number of qualified voters to fill the election offices in any precinct or if those officials elected fail or refuse to serve and there is a vacancy or vacancies after all the qualified voters for the precinct appearing on any of said lists have been elected, then the mayor and commissioners shall have the power to appoint as a substitute any qualified voter of the particular precinct who shall thereupon serve as an election official in the place of the person who is disqualified or has failed or refused to serve.

Section 2. In all such cities as defined in Section 1, any candidate for mayor running independently or any two (2) candidates for commissioner running independently or a candidate for mayor and commissioners who are running on the same ticket may by written petition addressed to the mayor and commissioners of any such city and filed with the city clerk fifteen (15) days before any such election, request the issuance in blank of credentials for two (2) supervisors for each of the voting precincts in such city and the mayor and commissioners of said city shall ten (10) days before such election issue to the candidate or candidates the number of credentials for supervisors requested in each petition numbered as to precinct and with the name of the supervisor left blank. The candidate or candidates to whom such credentials are issued in blank shall have the right as agent for the mayor and commissioners to insert the name of any duly qualified voter of the precinct for which such credential is issued and deliver such credential to the person named therein and such person shall thereupon be a duly appointed supervisor for such election. The person so appointed shall present such credential to the presiding judge of his precinct on election day and shall take an oath, to be administered by the presiding judge, that he will mention and note any errors he may see in listing or counting the votes and that he will well and truly discharge his duties as supervisor impartially, and will report in writing all violations of the law and irregularities that he may observe to the next grand jury. While the election is being held such supervisors shall be permitted to sit conveniently near the judges and they shall remain in view of the ballot boxes until the vote is counted, and the ballot boxes are locked and sealed and safely returned to the city clerk. It shall be their duty to be present at the marking by the judge of said election of the ballot of any voter not able to mark his own ballot, to see that said ballot is marked in accordance with the wishes of the voter and to see that such ballot is correctly counted. Said supervisors shall not be permitted to enter into any conversation with the judges or clerks regarding the election while it is progressing, except to call the attention of the judges or clerks to any irregularities or violation of the law that he may observe, provided, however, that the supervisors shall assist the election officers whenever additional help is necessary for the proper conduct of the election and when they have been requested to do so by the presiding judge. The supervisor appointed under the provisions of this Act shall be compensated by the candidate who delivers him his credentials.

Section 3. Judges and clerks in all such cities as defined in Section 1 shall be paid Five Dollars (\$5) a day each and Fifty Cents (50¢) per hour each for any time in excess of a day's work as herein defined. The judge who delivers the returns of election immediately after votes have been counted shall be paid Two Dollars (\$2) for that service provided he shall make returns of all election supplies used when he makes returns

of the election. Twelve (12) working hours shall be considered a day within the meaning of this Act. The compensation of judges and clerks shall be paid out of the city treasury. No supervisors shall be paid by the city. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 30.

Art. 4.08. In case of a tie

At any election, general or special, if there be an equal number of votes given to two (2) or more persons for the same office, except executive offices as provided in the Constitution, and no one elected there-to, the officer to whom the returns are made shall declare such election void as to such office only, and shall immediately order another election to fill such office; and notice shall be given, and such other election shall be held in the same manner as the general election. Provided, however, if the two (2) persons concerned shall agree in writing, filed with the returning officer, upon a different method of deciding which of the two (2) shall be declared elected, the decision shall be made in that manner and the special election not ordered. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 31.

Art. 4.09. Special elections to fill vacancies in public offices

Section 1. Where special elections are authorized by this Act, the officer authorized by law to order elections shall make such order, fixing the time of the election not less than twenty (20) nor more than ninety (90) days after the first public notice of such order.

Section 2. Election to fill unexpired term. Where vacancies which are to be filled by election occur in a civil office, an election shall immediately be ordered to fill the unexpired term.

Section 3. Election to unexpired term and to fill term succeeding unexpired term. Where an officer, holding an office the vacancy of which is to be filled by election, is re-elected to a term of office succeeding that of which he is the incumbent, and where, after the re-election of said officer, by reasons of the death or resignation of the officer or otherwise, there is no person legally entitled to fill the office for the unexpired term or to fill the office for the succeeding term to which the former officer was elected to succeed himself, an election shall be immediately ordered to elect a person to fill the unexpired term in said office and to elect a person to fill the term of office succeeding the unexpired term.

Section 4. Election on resignation of incumbent of unexpired term. When the incumbent of an office, the vacancy of which is to be filled by election, tenders to the officer authorized by law to receive same a written resignation effective at a future date, an election shall be ordered immediately after acceptance of the resignation to elect a successor to the incumbent to fill the term of office unexpired from and after the effective date of the resignation.

Section 5. Election on resignation of officer-elect. When an officer-elect to an office a vacancy in which must be filled by election, tenders to the officer authorized by law to receive the resignation of an incumbent of the office to which said officer-elect was elected, a declaration in writing of his intention not to qualify for the office to which he was elected, an election shall be ordered immediately upon receipt of said written declaration to elect a successor to the incumbent of the office.

Section 6. Election on death of officer-elect. When the officer-elect to an office which must be filled by election dies or becomes ineligible to qualify for the office to which he was elected, the proper officer shall immediately order an election to elect a successor to the incumbent of the office.

Section 7. Governor may accept resignations. Where no officer is otherwise authorized by law to receive and accept the resignation of an officer, the Governor is hereby designated as the officer to do so, and he is hereby empowered and authorized to receive and accept the resignation of all such officers.

Section 8. Poll tax lists delivered by tax collector to board. Whenever a special election or special primary as herein provided or otherwise provided by law shall be called between February 1st and April 1st, the tax collectors of the counties in which such election or primary is to be held shall make up and deliver to the board charged with the duty of furnishing election supplies separate certified lists of the citizens in each precinct who have paid their poll tax or have received their certificates of exemption in the form now provided by law, on or before February 20th. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 32.

Art. 4.10. Vacancy: Application to get on ballot

Any person desiring his name to appear upon the official ballot at any special election held for the purpose of filling a vacancy, when no party primary has been held, may do so by presenting his application to the proper authority. Such application shall set forth:

1. The name of the office sought,
2. His occupation, his post-office address, and the county of his residence,
3. His age, place of birth, kind of citizenship, and length of residence in the county and State.

Such application must be filed not later than thirty (30) days before any such special election, and must be accompanied with a fee of One Dollar (\$1) if a city office, Five Dollars (\$5) if a district or county office, and Fifty Dollars (\$50) if a State-wide office. Such fees shall be deposited in the general fund of the city, county, or the State as the case may be.

The application must be filed with the Secretary of State in the case of a State or district special election and with the City Secretary in the case of a municipal election. The Secretary of State shall upon receipt of the application which conforms to the above requirements, issue his instruction to the county clerks of this State, or of the district in the case of the district vacancy, directing that the name of the applicant shall be printed on the official ballot in the column under the title of the office for which he is a candidate.

The ballot in such special elections shall not bear any party designations but shall be printed otherwise as indicated in Section 61 [art. 6.05], and shall be marked as indicated in Section 62 [art. 6.06]. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 32a.

CHAPTER FIVE

SUFFRAGE

Art.

- 5.01. Not qualified to vote.
- 5.02. Qualification and requirements for voting.
- 5.03. Qualifications for voting bond issues, lending credit, expending money, or assuming debt.
- 5.04. Certified list of taxpayers.
- 5.05. Absentee voting.
- 5.06. Absentee ballots.
- 5.07. To vote in city elections.
- 5.08. "Residence".
- 5.09. Liability to pay poll tax.
- 5.10. Poll tax exemption.
- 5.11. Mode of paying poll tax.
- 5.12. Receipts.
- 5.13. Not to pay tax.
- 5.14. Form of receipt.
- 5.15. Removal to another county or election precinct.
- 5.16. Exemption certificate.
- 5.17. Certificate of exemptions without cost.
- 5.18. Poll Tax Books.
- 5.19. Poll tax deputy.
- 5.20. Collector may administer oaths.
- 5.21. Proof of residence.
- 5.22. List of voters.
- 5.23. Duplicates kept.
- 5.24. Statement of receipts.

Article 5.01. Not qualified to vote

The following classes of persons shall not be allowed to vote in this State:

1. Persons under twenty-one (21) years of age.
2. Idiots and lunatics.
3. All paupers supported by the county.
4. All persons convicted of any felony except those restored to full citizenship and right of suffrage or pardoned.
5. All soldiers, marines and seamen employed in the service of the Army or Navy of the United States. Provided that this restriction shall not apply to officers of the National Guard of Texas, the National Guard Reserve, the Officers Reserve Corps of the United States, nor to enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, nor to retired officers of the United States Army, Navy and Marine Corps, and retired warrant officers and retired enlisted men of the United States Army, Navy, and Marine Corps. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 33.

Art. 5.02. Qualification and requirements for voting

Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States, and who shall have resided in this State one (1) year next preceding an election, and the last six (6) months within the county in which he or she offers to vote, shall be deemed a qualified elector, provided that any voter who is subject to pay a poll tax under

the laws of this State, shall have paid said tax before offering to vote at any election in this State and holds a receipt showing that said poll tax was paid before the first day of February next preceding such election; and, if said voter is exempt from paying a poll tax he or she must procure a certificate showing his or her exemptions, as required by this Code. If such voter shall have lost or misplaced said tax receipt, he or she shall be entitled to vote upon making and leaving with the judge of the election an affidavit that such tax was paid by him or her, or by his wife or by her husband during the time allowed by law preceding such election at which he or she offers to vote, and that said receipt has been lost, misplaced, or left at home. The provisions of this section as to casting ballots shall apply to all elections including general, special, and primary elections; provided that a city poll tax shall not be required to vote in any election in this State except in city elections. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 34.

Art. 5.03. Qualifications for voting for bond issues, lending credit, expending money, or assuming debt

When an election is held by any county, or any number of counties, or any political subdivision of the State, or any political subdivision of a county or any defined district now or hereafter to be described and defined within the State, and which may or may not include towns, villages or municipal corporations, or any city, town or village, for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified electors who own taxable property in the State, county, political subdivision, district, city, town or village where such election is held, and who have duly rendered the same for taxation, shall be qualified to vote and all electors shall vote in the election precinct of their residence. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 35.

Art. 5.04. Certified list of taxpayers

Whenever an election is called in the State of Texas or any political subdivision thereof or in any defined district for the purpose of authorizing the issuance of bonds which place a lien upon real estate, it shall be the duty of the tax collector of the county or political subdivision or defined district to furnish to the election judges a certified list of the owners of taxable property in said county or political subdivision of the State in which said election is to be held who have rendered the same for taxes as shown on the tax rolls; said list of property owners shall determine the qualification of the electors to participate in said election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 36.

Art. 5.05. Absentee voting

Subdivision 1. Any qualified elector of this State who is absent from the county of his residence, or because of sickness or physical disability cannot appear at the poll place in the election precinct of his residence, on the day of holding any general, special, or primary election, may, nevertheless, cause his vote to be cast at such an election by compliance with one or other of the methods hereinafter provided for absentee voting.

Subdivision 2. Such elector shall make application for an official ballot to the county clerk in writing signed by the elector, or by a witness at the direction of said elector in case of latter's inability to make such written application because of physical disability. Such application shall be accompanied by the poll tax receipt or exemption certificate of the elector, or, in lieu thereof, his affidavit in writing that same has been lost or mislaid. If the ground of application be sickness or physical disability by reason of which the elector cannot appear at the polling

place on election day, a certificate of a duly licensed physician certifying as to such sickness or physical disability shall accompany the application.

Subdivision 3. At any time not more than twenty (20) days, nor less than three (3) days, prior to the date of such an election, such elector making his personal appearance before the county clerk of the county of his residence at his office and delivering to such clerk his application aforesaid, shall be entitled to receive from said clerk one (1) official ballot which has been prepared in accordance with law for use in such election, which ballot is then and there, in the office of said clerk of said county, and in the presence of said clerk to be marked by the elector in secret, or by said witness in case of physical disability of elector, so as to conceal the marking, and same shall, in the presence of the clerk, be deposited in a ballot box as hereinafter provided. Said electors or witnesses in the case of physical disability of electors shall write their home address together with the number of the voting precinct in which said ballot is to be cast on the back of said ballot. Supervisors, as provided for in Sections 19, 20, 21 of this Code, may be assigned to carry out the duties, as provided for in Section 19 of this Code, with respect to absentee voting in person.

Subdivision 4. At any time not more than twenty (20) days, nor less than three (3) days prior to the date of such an election, such elector who makes written application for a ballot as provided for in Subdivision 2 hereof, shall be entitled to have his ballot cast at such an election on compliance with the following provisions:

The application shall be mailed to the county clerk of the elector's residence whose duty it shall be forthwith to mail to such elector a blank official ballot and ballot envelope, which envelope shall bear upon the face thereof the name, official title and post office address of such county clerk, and upon the other side a printed affidavit in substantially the following form, to be filled out and signed by the elector; provided, however, that in case of the physical disability of elector preventing him from filling out and signing such affidavit, then the witness who assisted the elector in marking his ballot shall fill out and sign affidavit for and in behalf of elector and shall also sign his, witness' name as prescribed in the following form:

State of _____

County of _____

I, _____, do solemnly swear that I am a Resident of Precinct No. _____, in _____ County and am lawfully entitled to vote at the election to be held in said precinct on the _____ day of _____, 19____; that I am prevented from appearing at the polling place in said precinct on the date of such election because of (illness), (physical disability), (or because of absence from County), _____, (elector to signify one of foregoing reasons) that the enclosed ballot expresses my wishes, independent of any dictation or undue persuasion of any person; that I did not use any memorandum or device to aid me in the marking of said ballot.

Signature of elector

By: _____

Name of witness who assisted elector in event of physical disability.

Such elector shall mark the ballot, or it shall be marked by a witness at the direction of said elector in case of the latter's inability to mark such ballot because of physical disability, in the presence of a Notary Public or other persons qualified under the law to take acknowledgments, and in

the presence of no other person except said witness and/or such officer, and in such manner that such officer cannot know how the ballot is marked, and such ballot shall then in the presence of such officer be folded by the elector or by said witness in case of physical disability of said elector, deposited in said envelope, the envelope securely sealed, the endorsement filled out, signed and sworn to by the elector, or in case of physical disability, then by the said witness for and in behalf of said elector, and certified by such officer and then mailed by said officer, postage prepaid, to the county clerk.

Subdivision 5. Upon receipt of any such ballot sealed in its ballot envelope duly endorsed, the clerk shall keep the same unopened until the day of the election, and shall then deliver it to the judges hereinafter provided. And ballots mailed out by the county clerk within the legal time, but not received back by him on or before 1:00 p. m. of the day of election, shall not be voted, but shall remain in the custody of the county clerk during the thirty day period provided in Subdivision 6.

Subdivision 6. The ballots cast in the office of the county clerk shall be deposited when voted in a ballot box locked with two (2) locks the keys of one of which shall be kept during the period of absentee voting by the sheriff and the keys of the other by the county clerk. At 1:00 p. m. on the day of the election the ballots and the ballot envelopes which have been received by mail shall be delivered by the county clerk to a special canvassing board of three (3) or more members named by the authority which is authorized by law to name the presiding judges of that election; this special election board shall open the ballot boxes and the carrier envelopes, announce the elector's name and compare the signature upon the application with the signature upon the affidavit on the ballot envelope. In case the election board finds the affidavits duly executed, that the signatures correspond, that the applicant is a duly qualified elector of the precinct, and that he has not voted in person at said election, they shall open the envelope containing the elector's ballot in such manner as not to deface or destroy the affidavit thereon, take out the ballot therein contained without permitting same to be unfolded or examined and having endorsed the ballot in like manner as other ballots are required to be endorsed, deposit the same in the proper ballot box and enter the elector's name in the poll list the same as if he had been present and voted in person. If the ballot be challenged by any election officer, supervisor, party challenger, or other person, the grounds of challenge shall be heard, and decided according to law, including the consideration of any affidavits submitted in support of or against such challenge. If the ballot be admitted, the words "absentee voter" shall be set down opposite the elector's name on the poll list. If the ballot be not admitted, there shall be endorsed on the back thereof the word "rejected," and all rejected ballots shall be enclosed, securely sealed, in an envelope on which words "rejected absentee ballots" have been written, together with a statement of the precinct and the date of election, signed by the judges and clerks of election and returned in the same manner as provided for the return and preservation of official ballots voted at such election. This special election board shall cast these absentee votes and then shall open the ballot box and proceed to count and make out returns of all ballots cast absentee in the same way as is done at a regular polling place. This special canvassing board shall possess the same qualifications, be paid the same wage, and be subject to the same laws and penalties as regular election judges. Supervisors may be appointed as for regular voting boxes.

The county clerk shall return the poll tax receipts and the exemption certificates to the absentee voters at the end of thirty (30) days unless a contest has been filed.

Subdivision 7. Provided, however, that in all elections which are less than county wide, except those elections in which the names of candidates for offices less than county wide are printed on the same ballot as those that are candidates for state or district offices, the following procedure shall be used: The county clerk shall receive applications for ballots and handle the same as provided for in county-wide election, as hereinabove set out. At any time not more than twenty (20) days, nor less than three (3) days, prior to the date of such election, such elector making his personal appearance before the county clerk of the county of his residence at his office and delivering to such clerk his application as aforesaid, shall be entitled to receive from said clerk one (1) official ballot which has been prepared in accordance with law for use in such election, which ballot is then and there, in the office of said clerk in said county, and in the presence of said clerk, and no other person except the person who is authorized to assist elector in certain cases as herein provided, to be marked by the elector, or by said witness in case of physical disability of elector, so as to conceal the marking, and same shall, in the presence of the clerk, be deposited in a ballot envelope furnished by said clerk, the envelope shall bear upon the face thereof the name, official title, and post-office address of such county clerk, and upon the other side a printed affidavit in substantially the form set out in Subdivision 4 above, to be filled out and signed by the elector; provided, however, that in case of physical disability of elector he shall follow the same procedure set out in Subdivisions 3 and 4 above.

Subdivision 8. Upon receipt of any such ballot sealed in its ballot envelope duly endorsed, including those ballots which have been received through United States mails, the clerk shall keep the same unopened until the second day prior to such election, and shall then enclose same together with elector's application and accompanying papers, in a larger or carrier envelope. It shall be securely sealed and endorsed with the name and official title of such clerk, and the words "This envelope contains an absentee ballot and must be opened only at the polls on election day," and the clerk shall forthwith mail same, or deliver it in person, to the presiding judge or any assistant judge of the election in said precinct.

Subdivision 9. On the day of such election the absentee votes cast in elections less than county-wide shall be opened by the election judges of the precinct holding said election in accordance with the provisions set out in Subdivision 6 above. Except as herein provided wherever applicable the provision set out in this Code for the regulation and carrying on of State-wide elections shall apply to elections less than county-wide.

Subdivision 10. Whenever it shall be made to appear to the canvassing board that any elector whose ballot has been marked and forwarded as hereinbefore provided, has since died, then the ballot of such deceased voter shall not be counted; provided however, the casting of the ballot of a deceased voter shall not invalidate the election.

Subdivision 11. The county clerk shall post at a conspicuous place in his office, for public inspection, a complete list of those to whom ballots have been delivered or sent out under this Section, stating thereon the elector's name, age, occupation, precinct of residence and poll tax number or exemption certificate number, and the date on which ballot was delivered or mailed, which list shall be kept up from day to day. The applications, poll tax receipts, exemption certificates, or affidavits of loss thereof, shall also be open to public inspection at regular office hours, but under such reasonable rules and regulations as the county clerk may adopt to safeguard the same and to reasonably economize his own time while they are in his keeping. After having voted absentee, any voter who votes at same election on the day of the election, shall upon con-

viction be fined not to exceed One Thousand Dollars (\$1,000). It shall be the duty of the county clerk to deliver before the opening of the polls to each presiding judge, in person or by mail, the names of those who have voted absentee or made application to vote absentee for that election for that precinct.

Subdivision 12. Any of the duties by this Section committed to the county clerk may be performed at the county clerk's office by one (1) or more deputies specially designated in writing by the county clerk to act in connection with the election stated in the appointment.

Subdivision 13. The county clerks, their deputies and officers acting under this Section shall be considered as judges or officers of election within the scope of Articles 215 to 231, inclusive, of the Penal Code of Texas, and all amendments hereto, and be punishable as in said Articles respectively, provided in the case of judges or officers of election.

Subdivision 14. In counties where the towns other than the county seat have a population of four thousand (4,000) inhabitants or more according to the last Federal Census, the county clerk may appoint a deputy clerk in such towns for receiving such applications and accepting absentee ballots. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 37.

Art. 5.06. Absentee ballots

The ballot used in absentee voting, except where voting machines are used, shall be the stub ballot provided for elsewhere in this Code. In voting at the county clerk's office provided for under Section 37 [art. 5.05], the same procedure shall be used as voting at any regular voting place where voting machines are not used; the stubs being placed in a stub box furnished as for a regular polling place. If the name of the elector does not appear on the reverse side of the perforated stub, the election judge shall write the name of the elector on the back of said stub before depositing same in the stub box. The stub box shall be delivered by the canvassers after the votes are counted to the district clerk, the ballot box to the county clerk and the returns to the proper official as provided by law for regular polling places. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 38.

Art. 5.07. To vote in city elections

All qualified electors of this State, as described in the two preceding Sections who shall have resided for six (6) months immediately preceding an election within the limits of any city or incorporated town shall have a right to vote for mayor and all other elective officers; but in all elections to determine the expenditure of money or assumption of debt, or issuance of bonds, only those shall be qualified to vote who own taxable property in the city or town where such election is held and who have duly rendered the same for taxation; and all electors shall vote in the election precinct of their residence. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 39.

Art. 5.08. "Residence"

The "residence" of a single man is where he usually sleeps at night; that of a married man is where his wife resides, or if he be permanently separated from his wife, his residence is where he sleeps at night; provided that the residence of one who is an inmate or officer of a public asylum or eleemosynary institute, or who is employed as a clerk in one of the departments of the government at the Capital of this State, or of the United States, or who is a student of a college or university, unless such officer, clerk, inmate or student has become a bona fide resident citizen in the county where he is employed or is such student, shall be

construed to be where his home was before he became such inmate or officer in such eleemosynary institution or asylum or was employed as such clerk or became student; and if on payment of his poll tax he would be a qualified voter, he shall be permitted to return during the month of January in each year to his home to pay his poll tax or obtain his certificate of exemption, and shall be permitted to return again to his home to vote at any general, special, or primary election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 40.

Art. 5.09. Liability to pay poll tax

A poll tax shall be collected from every person between the ages of twenty-one (21) and sixty (60) years who resided in this State on the first day of January preceding its levy. Indians not taxed, persons insane, blind, deaf or dumb, those who have lost a hand or foot, those permanently disabled, and all disabled veterans of foreign wars, where such disability is forty per cent (40%) or more, excepted. It shall be paid at any time between the first day of October and the first day of February following; and the person when he pays it, shall be entitled to his poll tax receipt, even if his other taxes are unpaid. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 11.

Art. 5.10. Poll tax exemption

Every person who is a qualified voter otherwise and who is exempt from paying a poll tax shall be entitled to vote without being required to pay a poll tax if he has obtained his certificate of exemption from the County Tax Collector when same is required by the provisions of this Code. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 42.

Art. 5.11. Mode of paying poll tax

The poll tax must either be paid in person or by someone duly authorized by the taxpayer in writing to pay the same, and to furnish the Collector the information necessary to fill out the blanks in the poll tax receipt. Such authority and information must be signed by the party who owes the poll tax, and must be deposited with the Tax Collector and filed and preserved by him. A taxpayer may pay his poll tax by a remittance of the amount of the tax through the United States mail to the County Tax Collector, accompanying said remittance with a statement in writing showing all the information necessary to enable the Tax Collector to fill out the blank form of the poll tax receipt, which statement must be signed by the party who owes the poll tax under oath, but the husband may sign for the wife and in like manner the wife may sign for the husband, and the Tax Collector shall issue and mail to the taxpayer at his last known address a poll tax receipt, or, if requested to do so by the taxpayer in writing, the Collector may hold said receipt to be delivered to the taxpayer in person. The husband may pay the poll tax of his wife and receive the receipt therefor. In like manner the wife may pay the poll tax of her husband and receive the receipt therefor. The Assessor and Collector of Taxes may at such places as shall in his discretion be necessary or advisable, have a duly authorized and sworn deputy for the purpose of accepting poll taxes and giving receipts therefor. Article 2962 is hereby repealed. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 43.

Art. 5.12. Receipts

Where a property taxpayer residing either within or without a city of ten thousand (10,000) inhabitants or more, has a poll tax assessed against him or his wife or both, he may, at the same time that he pays his property tax by bank check or money order also pay the poll tax of himself and wife, or either. Exemption certificates shall be mailed with

the property tax receipt upon the payment of the property tax, when said property tax receipts are mailed to the taxpayer. All tax receipts issued for any year after January 31st shall be stamped on the face thereof: "Holder not entitled to vote." and the names of the holders of such poll tax receipts shall not be included in the list of qualified voters. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 44.

Art. 5.13. Not to pay tax

No candidate for office shall pay the poll tax for another. No person shall for or on behalf of any candidate for office or person interested in any question to be voted on pay the poll tax for another. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 45.

Art. 5.14. Form of receipt

Each poll tax receipt and its duplicate shall show the name of the party for whom it was issued, the payment of the tax, the age and race of the taxpayer, and the length of time the taxpayer has resided in the State and whether the taxpayer is a citizen of the United States, and if so, whether a native born or a naturalized citizen of the United States, and the State of the United States or the foreign country where the taxpayer was born, the length of time the taxpayer has resided in the county, the voting precinct in which the taxpayer lives, the taxpayer's occupation and post-office address, or if living in an incorporated city, the ward, street, and number of residence in such city or town. The poll tax receipt shall be numbered consecutively in each book provided for in this Code.

(6) The poll tax receipt shall be in the following form:

Poll Tax Receipt No. _____

State of Texas

County of _____

Received of _____ on the _____ day of _____, A.D. _____, the sum of \$_____ in payment of poll tax for year A.D. 19____, the said taxpayer being duly sworn by me, says that he (she) is _____ years old, that he (she) is a native born (naturalized) citizen of the United States, and was born in _____ County, _____ State, that he (she) has resided in Texas _____ years and in _____ County _____ years, that he (she) is by occupation _____, and that his (her) post-office address is _____, (if in an incorporated city or town, a blank word must be printed for the ward, street, and number of residence in lieu of his (her) post-office address, and length of time he (she) has resided in such city (or town)).

All of which I certify: (Signed) _____
(seal)

If from the information on the poll tax receipt above required, it appears that the party receiving the same is an alien, he shall be given a receipt from a book specially prepared for alien taxpayers, which book is hereinafter provided in this title, and the tax collector and the Commissioners Court or other authorities providing said poll tax receipt shall have printed on the face of said receipt the word "alien" which said printing shall not be less than two (2) inches in height, superimposed in outline type, and printed in red ink. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 46.

Art. 5.15. Removal to another county or election precinct

If a citizen after receiving his poll tax receipt or certificate of exemption, removes to another county or to another election precinct in the same county, he may vote at an election, general, special, or primary, in the precinct of his new residence in such other county or precinct by pre-

senting his poll tax receipt or certificate of exemption or his affidavit of its loss to the precinct judges of election, and state in such affidavit where he paid such poll tax or received such certificate of exemption, and by making oath that he is the identical person described in such poll tax receipt or certificate of exemption, and that he then resides in the precinct where he offers to vote and has resided for the last six (6) months in the county in which he offers to vote and twelve (12) months in the State. But no such person shall be permitted to vote in a city of ten thousand (10,000) inhabitants or more, unless he has first presented to the tax collector of his residence a tax receipt or certificate, not less than four (4) days prior to such election or primary election or made affidavit of its loss and stating in such affidavit where he paid such poll tax or received such certificate of exemption; and the collector shall thereupon add his name to the list of qualified voters of the precinct of his new residence; and, unless such voter has done this and his name appears in the certified list of voters of the precinct of his new residence, he shall not vote. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 47.

Art. 5.16. Exemption certificate

Every person who is exempted by law from the payment of a poll tax, and who is in other respects a qualified voter, who resides in a city of ten thousand (10,000) inhabitants or more, shall, before the first day of February of the year when such voter shall have become entitled to such exemption, obtain from the Tax Collector of the county of his or her residence, a certificate showing his or her exemption from the payment of a poll tax. Such certificate shall entitle such voter to vote at any election held between the date of its issuance and a period of one (1) year from the 31st day of January following its issuance.

Such exempt person shall on oath state his name, age, race, county of residence, occupation, the length of time he has resided in said county, and the length of time in the city, and the number of the ward or voting precinct in which he resides, and shall also state his street address by name and number, if numbered, and the grounds upon which he claims exemption from the payment of a poll tax.

A certificate of exemption from the payment of poll tax shall be issued from a well-bound book, containing therein original and duplicate, and upon issue the certificate issued to the exempt voter shall be detached from said book, leaving therein a duplicate carbon or other copy thereof, which shall contain the same description and the original certificate bearing its proper number shall be delivered to the citizen in person to identify him in voting. The Tax Assessor and Collector shall place the names of such persons who are exempt from the payment of poll tax and who receive an exemption certificate under the terms of this Act, on the regular list of qualified voters for each precinct.

No charge shall be made by the Tax Assessor and Collector for the issuance of certificates of exemption as prescribed by this Act. Certificates of exemption for each county shall be numbered consecutively, beginning at Number One.

Certificates 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. _____ in Ward No. _____ in said City, and that his street number is No. _____ Street; that he is exempt from the payment of a poll tax by reason of _____; 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."

(Seal) Although entitled to an exemption certificate, no one shall vote who does not possess a current exemption certificate.

In the event of 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 Collector. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 48.

Art. 5.17. Certificate of exemptions without cost

Every citizen not subject to the disqualifications set out in Section 33 and who is exempt from the payment of a poll tax by reason of the fact that he or she has not yet reached the age of twenty-one years on the first day of January preceding its levy, or who is exempt from the payment of a poll tax because he or she was not a resident of the State on the first day of January preceding its levy, but who shall have since become eligible to vote by reason of length of residence or age, shall not later than thirty (30) days before any election at which he wishes to vote obtain from the Assessor and Collector of Taxes for the county of his or her residence a certificate of exemption from the payment of a poll tax, and no such person who has failed or refused to obtain such certificate of exemption from the payment of a poll tax shall be allowed to vote. The Tax Collector shall furnish a supplemental list of voters having thus qualified since voting lists were prepared to the election judges of the various precincts at the same time other election supplies are furnished.

Such exempt person shall on oath state his name, age, race, county of residence, occupation, the length of time he has resided in the State of Texas, the length of time he has resided in said county, and the length of time in the city, and the number of the ward or voting precinct in which he resides, and shall also state his street address by name and number, if numbered, and his or her rural address if not a resident of a city or a village. He shall also state the grounds upon which he claims exemption from the payment of a poll tax, and if he be a foreign born citizen he shall state the date on which he received his final citizenship papers and the city in which they were received.

A certificate of exemption from the payment of poll tax shall be issued from a well bound book, containing therein original and duplicate, and upon issue the certificate issued to the exempt voter shall be detached from said book, leaving therein a duplicate carbon or other copy thereof, which shall contain the same description, and the original certificate, bearing its proper number, shall be delivered to the citizen in person to identify him in voting. Certificates of exemption for each county shall be numbered consecutively, beginning at Number One.

The Tax Assessor and Collector shall place the names of such persons who are exempt from the payment of poll tax and who receive an

exemption certificate under the terms of this Act, on the regular list of qualified voters for each precinct. No charge shall be made by the Tax Assessor and Collector for the issuance of certificates of exemption as prescribed by this Act.

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. Certificates shall be in substantially the form indicated in Section 48, except that in addition thereto, the date of birth shall be set out in said certificate. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 49.

Art. 5.18. Poll Tax Books

The Commissioners Court of each county in this State, before the first day of October every year, shall furnish to the County Tax Collector a sufficient number of blank poll tax receipt books and blank certificates of exemption books for the county. Each receipt and certificate shall, in such books, be bound immediately over a duplicate copy which when filled out shall correspond with the receipt or certificate in its number and name, length of residence in the State and County, and the voting precinct, race, occupation, and post-office address of the citizen to whom the tax receipt or certificate of exemption is given. If the citizen resides in a city, the receipt or certificate and duplicate must show the ward, street, and number, if numbered, of the citizen's residence (in lieu of post-office address) and the length of time he has resided in such city; the receipt and certificates shall be numbered in consecutive order for the entire county. When the tax receipt or certificate is delivered to the citizen, it shall be detached from the book and retained by him for his future use and identification in voting, and at the time said books are made, the Commissioners Court shall prepare a separate book or books which shall be marked "Alien Poll Tax Receipt Book" and if the tax certificate provided for in Section 46 [art. 5.14] of this Chapter discloses that said applicant is an alien then the Tax Collector shall issue from the book marked "Alien Poll Tax Receipt Book" a receipt to said applicant which shall have printed on the face of said receipt the word "Alien" not less than two (2) inches in height, superimposed in outlined type, printed in red ink, and in order that the Tax Collector may carry out this provision, it shall be the duty of the Commissioners Court to provide the separate book or books as herein set out and have the receipt prepared in said book or books in conformity with the above provision. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 50.

Art. 5.19. Poll tax deputy

In all counties containing a city of ten thousand (10,000) inhabitants or more, other than the county seat, such collector shall have a duly authorized and sworn deputy to represent him for the purpose of accepting poll taxes and giving receipts therefor, and issuing exemption certificates, who shall keep his office for such purpose at some convenient place in such city during the entire month of January of each year, and he shall publish four (4) weeks notice of the authority of such deputy and the location of the office. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 51.

Art. 5.20. Collector may administer oaths

The county collector is authorized to administer oaths and certify thereto under the seal of his office in every case where an oath is required in complying with any portion of this Code connected with his official duties. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 52.

Art. 5.21. Proof of residence

If the county collector has reason to believe that one who applies to pay his poll tax or secure his certificate of exemption from its payment, has falsely stated his age, occupation, precinct of his residence, or length of his residence in the State, county and city, or any other matter touching his qualifications to vote, he shall require proof of such statement; and, if on inquiry, he is satisfied that said person has sworn falsely, he shall make a memorandum of the words used in such statement, and present the same to the foreman of the next grand jury or if the County Collector does not personally know one who applies to pay his poll tax or secure his certificate of exemption from its payment as being a resident in the precinct which such person claims as that of his residence, it shall be the duty of such collector to require proof of such residence or of such other facts as may be necessary. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 53.

Art. 5.22. Lists of voters

Before the first day of April every year, the county tax collector shall deliver to the board that is charged with the duty of furnishing election supplies separate certified lists of citizens in each precinct who have paid their poll tax or received their certificates of exemption, the names being arranged in alphabetical order and to each name its appropriate number as shown by the duplicate retained in his office with a description of the voter as to his residence, his voting precinct, length of his residence in the State and county, his race, occupation, and post-office address. The tax collector shall also furnish to said board, not less than four (4) days prior to any primary or any election, supplemental lists in the form herein prescribed of all poll tax paying voters who have, since paying their poll tax, removed to each voting precinct in each such city or town in the county from another county or in other precincts in the same county, and those who have received their exemption certificates since the preparation of the original certified list. Said board shall furnish each presiding judge of a precinct the certified lists and supplemental lists of the voters of his precinct at the time when it furnishes other election supplies.

At the time the tax collector makes up his list of voters as herein provided, he shall at the same time on a separate list make up a list of alien poll tax payers and shall mark at the top of said list the words "Alien Poll Tax Payers," and such list shall be delivered at the same time and the same manner and to the same officials as hereinabove provided for other poll tax lists, and the lists of qualified voters in said county and in various precincts of said county. Such certified lists of qualified voters and lists of alien taxpayers shall be in the following form:

No. _____
 Name _____
 Precinct _____
 Age _____
 Length of Residence _____
 Occupation _____
 Race _____
 Length of Residence in City and Ward _____
 Street and Number of Residence _____
 Post Office Address _____

Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 54.

Art. 5.23. Duplicates kept

The county collector shall keep securely in a safe place the duplicates for each precinct from which such poll tax receipts and certificates of exemption have been detached, and they must remain there except when taken out for examination, which must always be done in his presence, but they shall be burned by the county judge at the expiration of three (3) years. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 55.

Art. 5.24. Statement of receipts

On or before the tenth day of March of each year, the tax collector shall make a statement to the county clerk showing how many poll tax receipts have been issued and to whom issued in each voting precinct in the county. Such statement shall become a record of the Commissioners Court. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 56.

CHAPTER SIX

OFFICIAL BALLOT

Art.

- 6.01. Official ballot.
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Article 6.01. Official Ballot

In all elections by the people, the vote shall be by official ballot, which shall be numbered, and elections so guarded and conducted as to detect fraud and preserve the purity of the ballot. No ballot shall be used in voting at any general, primary or special election held to elect public officers, select candidates for office or determine questions submitted to a vote of the people, except the official ballot, unless otherwise authorized by law. At the top of the official ballot shall be printed in large letters the words "Official Ballot." It shall contain the printed names of all candidates whose nominations for an elective office have been duly made and properly certified. The names shall appear on the ballot under the head of the party that nominates them, except as otherwise provided by this Code. No name shall appear on the official ballot except that of a candidate who was actually nominated (either as a party nominee or as a non-partisan or independent candidate) in accordance with the provisions of this Code. The name of no candidate shall appear more than once upon the official ballot, except as a candidate for two (2) or more offices permitted by the Constitution to be held by the same person or as the nominee of two (2) or more political parties for the same office. The name of no candidate of any political party that cast two hundred thousand (200,000) votes or more cast for its candidate for governor at the last preceding general election shall be printed on any official ballot for a general election, unless nominated by primary election, on primary election day, except as herein otherwise provided. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 57.

Art. 6.02. Loyalty affidavits

Section 1. No person shall be permitted to have his name appear upon the official ballot as a candidate or nominee for any office at a general election, primary election or a special election in this State unless and until he shall file a loyalty affidavit with the State, District, County, or Party Official with whom the law requires him to file his application for a place on the ballot. Said affidavit shall be in a form to be prescribed by the Attorney General of Texas and shall recite that if said candidate is nominated or elected to the office which he seeks, he will support and defend the Constitution and Laws of the United States and of the State of Texas. Said affidavit shall further recite that said candidate believes in, approves of and if nominated or elected he will support and defend our present representative form of government and will resist any effort or movement from any source which seeks to subvert or destroy the same or any part thereof. Use of the masculine term herein shall be construed to include the feminine.

Section 2. The name of no candidate or nominee of any political party whose principles include any thought or purpose of setting aside representative form of government and substituting therefor any other form of government shall be permitted on the official ballot.

Section 3. It is specifically provided that no candidate or nominee of the Communist Party or the Fascist Party or the Nazi Party shall ever be allowed a place on said official ballot.

Section 4. Any State, District, County or Political Officer failing or refusing to require a loyalty affidavit as prescribed herein shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200). Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 58.

Art. 6.03. Certain political parties not permitted on ballot

Any political party whose members believe in or advocate the principles and teachings of Communism, or who propose or advocate the overthrow of the Constitutional Government of the United States by force, shall not be permitted to have the name of any such party printed or placed on the official ballot at any General Election hereafter to be held in this State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 59.

Art. 6.04. Death or declination

If a nominee dies or declines his nomination, and the vacancy so created shall have been filled, and such facts shall have been duly certified in accordance with the provisions of this Code, the Secretary of State or County Judge, as the case may be, shall promptly notify the official board created by this law to furnish election supplies that such vacancy has occurred and the name of the new nominee shall then be printed upon the official ballot, if the ballots are not already printed. If such declination or death occurs after the ballots are printed, or due notice of the name of the new nominee is received after such printing, the official board charged with the duty of furnishing election supplies shall prepare as many pasters bearing the name of the new nominee as there are official ballots, which shall be pasted over the name of the former nominee on the official ballot before the presiding judge of the precinct indorses his name on the ballot for identification. No paster shall be used except as herein authorized and if otherwise used the names pasted shall not be counted. In place of the pasters the said official board may have the ballots reprinted blotting out the name and printing above it the name of the new nominee thus: A. T. Jones

John Dee

If a state or district official who is serving a four (4) or a six (6) year term should die or resign on the even numbered year in which he is not a candidate, after the filing date of the first primary election and before the printing of the ballot for the general election, the state committee for each political party in the case of state officers and the appropriate district committee for each political party in the case of district officers shall have the power to name a nominee for such position and to certify the name to the proper election board to have the name printed on the general election ballot. In any case where a district committee is empowered to name a nominee and is unable to agree upon a suitable candidate due to a tie vote and fails to do so within twenty (20) days of a general election, the state executive committee of that political party may name a candidate for such position and certify the name to the proper election boards to have the name printed on the official ballot for the general election.

Art. 6.05. Form of the Ballot

All ballots shall be printed on white paper of uniform style and of sufficient thickness to prevent the marks thereon to be seen through the paper. Provided that a suitable number of sample ballots may be printed on yellow paper for any election or primary but no ballot on yellow paper may be cast or counted. The tickets of each political party shall be printed on one ballot, arranged side by side in columns separated by a parallel rule. The space which shall contain the title of the office and the name of the candidate shall be of uniform style and type on said tickets. At the head of each ticket shall be printed the name of the party.

Upon each official ballot there shall be in the top right-hand corner a detachable stub formed by a perforated line which shall start two (2) inches below the top right-hand corner of the ballot and shall extend two (2) inches to the left and thence to the top edge of the ballot. Upon the stub thus formed there shall be no printing or writing except the number of such ballot and the date and designation of the election, and the words, "NOTE: VOTER'S SIGNATURE TO BE AFFIXED ON THE REVERSE SIDE." All ballots prepared for an election shall be numbered consecutively beginning with No. 1 in each county, and the identical number that appears on the stub shall also appear in the top left-hand corner of the ballot. Those identical numbers in the top left-hand corner and on the stub in the top right-hand corner shall be printed or stamped in consecutive order, on all the ballots prepared for any election, with a separate number for each ballot, at the time of printing and before they are divided up and delivered to the election judges.

When a party has not nominated a full ticket, the title and name of those nominated shall be opposite the same office of the full ticket. In the write-in column the titles of the officers shall be printed in all blank spaces to correspond to a full ticket. When presidential electors are to be voted upon their names shall not appear on the official ballot, but the names of the candidates for President and Vice-president, respectively, of the political parties, as defined in the law, shall appear at the head of their respective tickets, printed as one race, and the votes for presidential electors of the various parties shall be canvassed, counted, and returns made in accordance with Sec. 171 and Sec. 172 [arts. 11.02, 11.03]. When Constitutional Amendments or other propositions are to be voted on, the same shall appear once on each ballot in uniform style and type.

At any election or primary there shall be printed beside each name on the ballot a square, , and if the voter places an X or a plus sign or any mark that clearly shows his intention, in such space, it shall be counted for that candidate, provided that no more names are thus

marked than there are places to be filled. On each official ballot where officers are to be elected or nominated there shall be printed just above the names of the candidates this instruction note: "You may vote for the candidates of your choice by placing an X in the square beside the name or you may vote for the candidate of your choice in each race by scratching or marking out all other names in that race." Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 61.

Art. 6.06. How to mark ballot

When a voter desires to vote a ticket straight, he shall run a pencil or pen through all other tickets on the official ballot, making a distinct marked line through such ticket not intended to be voted; and when he shall desire to vote a mixed ticket he shall do so by running a line through the names of such candidates as he shall desire to vote against in the ticket he is voting, and by writing the name of the candidate for whom he desires to vote in the blank column and in the space provided for such office; same to be written with ink or pencil, unless the names of the candidates for which he desires to vote appear on the ballot, in which event he shall leave the same not scratched.

Provided, however, that if a voter in any primary, special, or general election places a plus sign or an X or any mark that clearly shows his intention in the beside any name and only one such name (if one is to be elected for such a position), the vote shall be counted for such a person. If more than one person is to be chosen for any given post, the same rule is to be applied if no more names are marked than are to be selected. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 62.

Art. 6.07. Constitutional amendment and other questions

When a proposed constitutional amendment or other question submitted by the Legislature is to be voted on, the form in which it is submitted, if the Legislature has failed to prescribe the same, shall be prescribed by the Governor in his proclamation, describing the same in such terms as give a clear idea of the scope and character of the amendment in question. When more than one proposed constitutional amendment or other question is submitted by the Legislature at one election, the Secretary of State shall give to each such proposition and question a separate number, and shall certify the same together with its separate number to the county clerk of each county in the State. The number given to each such proposition, question or proposed amendment shall be determined by lot. The Secretary of State shall hold such drawing at a time and place designated by him and such drawing shall be open to the public. The propositions and questions so submitted shall be printed and numbered on the Official ballot in the serial order in which they are numbered by the Secretary of State. On each official ballot used for Constitutional amendments there shall be printed just above the amendments to be voted on this instruction note: "Scratch or mark out one statement so that the one remaining shall indicate the way you wish to vote."

Such Constitutional amendments shall be published, under the authority of the Secretary of State as required by the Constitution. The Secretary of State shall apportion the Amendments to the contracting newspapers; shall furnish affidavit forms, in duplicate, to be executed by the owner, editor, or publisher of the newspaper, when four (4) publications shall have been made; shall furnish one approved copy of each executed affidavit to the Comptroller, who shall then authorize the Treasurer to issue warrant in the amount specified. Executed affidavits must be returned from the owner, editor, or publisher of the newspaper, to the Secretary of State within thirty (30) days from the date of the

last publication; unless this time limit is observed, the Secretary of State shall refrain from approving affidavits for payment. The Comptroller and Treasurer shall forthwith perform their duties in this connection, so that undue length of time shall not elapse between publication and payment therefor. The Legislature shall appropriate a sufficient fund for such publication, such fund to be estimated by the Secretary of State.

The form in which any proposition or question to be voted on by the people of any city, county or other subdivision of the State shall be submitted, shall be prescribed by the local or municipal authorities submitting it. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 63.

Art. 6.08. Form by local authorities

At the election of school district officers or school officers for a city, town or village, at which no officer is to be elected, or election of officers of fire departments, any ballot may be used prescribed by local authorities. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 64.

Art. 6.09. Ballots furnished

For each voting precinct, there shall be furnished at least as many official ballots plus ten per cent (10%) as there are qualified voters in the precinct, as shown by the list required to be furnished by the tax collector to precinct judges. The official ballots to be counted before delivery and sealed up and together with the instruction cards, with poll lists, tally sheets, distance markers, returning blanks and stationery, shall be delivered to the precinct judges, and the number of each endorsed on the package, and entered of record by the county clerk in the minutes of the Commissioners Court. In like manner, shall be sent the list of qualified voters for the precinct certified to by the collector. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 64.

Art. 6.10. Voters provide form

If, from any cause, the official ballots furnished for an election precinct have been exhausted or not delivered to the precinct judges, the voters may provide their own ballot after the style of the official ballot described in this title. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 65.

CHAPTER SEVEN

ARRANGEMENT AND EXPENSES OF ELECTION

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Article 7.01. Voting booths

Voting booths shall be furnished and used at elections at each voting precinct in towns or cities of ten thousand (10,000) inhabitants or more. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 66.

Art. 7.02. Booths and guard rails

There shall be one voting booth or place for every seventy citizens who reside in the voting precinct and who at the last general election paid their poll tax or obtained certificates of exemption from its payment, provided, the judges of the election may provide as many more booths and places as they deem necessary. Each polling place, whether provided with voting booths or not, shall be provided with a guard rail, so constructed and placed that only such persons as are inside of such guard rail can approach the ballot boxes or compartments, places or booths at which the voters are to prepare their votes, and that no person outside of the guard rail can approach nearer than six (6) feet of the place where the voter prepares his ballot. The arrangement shall be such that neither the ballot boxes nor the voting booths nor the voters while preparing their ballots shall be hidden from view of those outside the guard rail, or from the judges, and yet the same shall be far enough removed and so arranged that the voter may conveniently prepare his ballot for voting in secrecy. Where voting booths are required they shall have three (3) sides closed and the front side open, shall be twenty-two (22) inches wide on the inside, thirty-two (32) inches deep and six (6) feet four (4) inches high, contain a shelf for the convenience of the voter in preparing his ballot; and shall be so constructed with hinges that they can be folded up for storage when not in use. The voting booths shall be so arranged that there shall be no access to them through any doors, window or opening except through the front of the booth; and the same care shall be observed in precincts where there are no booths in protecting the voter from intrusion while he is preparing his ballot. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 67.

Art. 7.03. Open to view

All booths and voting places shall be properly lighted. Every guard rail shall be provided with a place for entrance and exit. The arrangement of the polling place shall be such that the booths or places prepared for voting can only be reached by passing within the guard rail; and the booths, ballot boxes, election officers and every part of the polling place, except the inside of the booths, shall be in plain view of the election officers and persons outside the guard rail, among whom may be one challenger for each political party and no more. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 68.

Art. 7.04. When booth not required

When voting booths are not required, a guard rail shall be so placed that no one not authorized can approach nearer than six (6) feet of the voter while he is preparing his ballot; and a shelf for writing shall be prepared for him with black lead pencil, and so screened that no other person can see how he prepares his ballot. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 69.

Art. 7.05. Ballot boxes marked

For each election precinct, there shall be provided four (4) ballot boxes to be marked as follows: "Ballot box No. 1 for election precinct No. _____" (giving name and number of precinct); "Ballot box No. 2 for election precinct No. _____"; "Ballot box No. 3 for election precinct No. _____"; "Ballot box No. 4 for election precinct No. _____." Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 70.

Art. 7.06. Ballot boxes

All ballot boxes shall be securely made of metal or wood, provided with a top, hinges, lock and key, and an opening shall be made at the top of each just large enough to receive a ballot when polled. Whenever the ballots shall have been counted at any election, general, special, or primary, the counted ballots shall be locked in one of the ballot boxes of suitable size and delivered to the proper official and the key or keys to the said lock shall be delivered to the sheriff to be kept for at least thirty (30) days unless sooner needed for recount or contest as provided by law. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 71.

Art. 7.07. Board to provide supplies

The county judge, county clerk and sheriff shall constitute a board, a majority of whom may act to provide the supplies necessary to hold and conduct the election, all of which shall be delivered to the presiding judges of the election by the sheriff or any constable of the county, when not called for and obtained in person by the precinct judges. Said board shall file with the Commissioners Court a written report of their action as to supplies furnished by the county, giving a detailed statement of the expenses incurred in procuring such supplies. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 72.

Art. 7.08. Supplies needed

The respective counties shall provide the additional supplies needed to comply with this Act in so far as general and special elections are concerned. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 73.

Art. 7.09. Judge to procure

If from any cause, ballot boxes, voting booths, guard rails or other election supplies have not been received by the presiding judge, he shall procure them, and they shall be paid for as other election supplies. If the certified list of qualified voters is not in his possession at least three (3) days before the election, he shall send for and procure them. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 74.

Art. 7.10. Collector's fee for poll taxes

The Tax Collector shall be paid Fifteen Cents (15¢) for each poll tax receipt and certificate of exemption issued by him to be paid pro rata by the State and County in proportion to the amount of the poll tax received by each, which amount shall include compensation for all duties performed by him under the provisions of this Code. Provided, however, that where County Tax Collectors are compensated on a salary basis the money paid by the State for the collection of the poll tax and issuing exemption certificates shall be deposited in the Officers Salary Fund of the County. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 75.

Art. 7.11. Duty of Sheriff and Constable

It shall be the duty of the sheriff or any constable of the county when called upon by the proper authority to serve all process and deliver all election supplies provided for by this Code. No extra compensation shall be allowed the sheriff or constable for the performance of such duties. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 76.

Art. 7.12. Expenses for election supplies

All expenses incurred in furnishing the supplies, ballots, and booths in any general or special election shall be paid for by the county, except

costs in municipal and school elections. All accounts for supplies furnished and services rendered shall first be approved by the Commissioners Court before they are paid by the county. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 77.

Art. 7.13. Municipal Elections

The expense of all city and town elections shall be paid by the municipality in which same are held. In all such elections, the mayor, the city secretary, and/or the governing body shall do and perform each act which in other elections are required to be done and performed respectively by the county judge, the county clerk and the Commissioners Court. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 78.

Art. 7.14. Providing for voting machines

Sec. 1. Providing for Examination and Approval of Voting Machines by the Secretary of State. Any person, firm or corporation owning or controlling any voting machine and desiring to have the same adopted for use in the State of Texas, may apply to the Secretary of State to have such machine examined. Before the examination the applicant shall pay to the Secretary of State the sum of Four Hundred and Fifty Dollars (\$450). The Secretary of State shall cause said machine to be examined as hereinafter provided and shall make and file and keep on file in the office of the Secretary of State a report of such examination, which shall show whether the kind of machine so examined can safely be used by the voters at an election or primary election, under the conditions hereinafter provided. If the report states that the machine can be so used, it shall be deemed approved, and machines of its kind may be adopted for use at elections and primary elections as herein provided. Before making and filing such report, the Secretary of State shall require such voting machine to be examined by three (3) examiners to be appointed by the Secretary of State for such purpose, one of whom shall be an expert in patent law, and the other two (2) mechanical experts, and shall require of them a written report on such machine, and which reports shall be attached to the Secretary of State's report and kept on file. Each examiner shall receive the sum of One Hundred and Fifty Dollars (\$150) as his compensation and expenses in making an examination and report as to each voting machine examined by him. Neither the Secretary of State nor any examiner shall have any pecuniary interest in any voting machine. When the machine has been approved, any improvement or change that does not impair its accuracy, efficiency or capacity, shall not make necessary a reexamination or reapproval thereof. Any form of voting machine not approved as herein set out, or which has not been examined by voting machine examiners and reported on pursuant to law and its use specifically authorized by law, cannot be used at any election or primary election in the State of Texas.

Sec. 2. Setting Out Requirements of Voting Machines. A voting machine approved by the Secretary of State must be so constructed as to provide facilities for voting for such candidates as may be legally placed on a ballot in the State of Texas. It must also permit a voter in a General Election to vote for any person for any office, whether or not nominated as a candidate by any party but whose name is legally on the ballots as an independent candidate, and must permit voting in absolute secrecy. It also must be so constructed that a voter cannot vote for a candidate or on a proposition for whom or on which he is not lawfully entitled to vote. It also must be so constructed as to prevent voting for more than one person for the same office and at the same time preventing

his voting for the same person twice. It must be provided with a lock or locks, by the use of which immediately after the polls are closed or the operation of such machine for such election or primary is completed, any movement of the voting or registering mechanism is absolutely prevented. Such machine shall be equipped with one or more protective counters.

Sec. 3. Adoption by Commissioners Court. The Commissioners Court of any county in the State of Texas may adopt for use in elections and primary elections in at least three (3) of the larger voting precincts in voting strength in said county, any kind of voting machine approved by the Secretary of State and may adopt such voting machine at any time for use in such additional voting precincts in the county as it may deem advisable, and thereupon such voting machine shall be used at any and all elections and primary elections, municipal, county, district, or State held in that county or any part thereof, designated for voting, registering and counting votes cast at such elections and primary elections, all school and bond elections also shall be conducted by the use of voting machines in those counties or parts thereof where such machines have been adopted, where the law specifically makes their use obligatory.

Sec. 4. Experimental Use of Voting Machines. The Commissioners Court of any county in the State of Texas, where not otherwise herein provided, may secure, for experimental use, at an election or primary election, in one or more precincts without a formal adoption thereof; and its use at such election or primary shall be as valid for all purposes as if it had been formally adopted.

Sec. 5. Providing Voting Machines; Generally; Division of Counties, Towns, etc., into Election Precincts. The County Commissioners of a county which has adopted voting machines for that county or any portion thereof, shall as soon as practicable, and in no case later than six (6) months after adoption thereof, provide for each voting precinct designated one or more approved voting machines in completed working order, and shall thereafter preserve and keep them in repair. The Commissioners Court of any county in the State of Texas, which has adopted voting machines for that county or any portion thereof may, if they deem it proper, at each August term of court, divide their respective counties, and counties attached thereto for judicial purposes, into convenient election precincts, containing any number of qualified electors, each of which precincts shall be differently numbered and described by natural, or artificial boundaries or survey lines by an order to be entered upon the minutes of the court. They shall immediately thereafter publish such order in some newspaper in the county for three (3) consecutive weeks. If there be no newspaper in the county, then such copy of such order shall be posted in some public place in each precinct in the county. No election precinct shall be formed out of two (2) or more Justice Precincts nor out of the parts of two (2) or more Justice Precincts. The Commissioners Court shall cause to be made out and delivered to the County Tax Assessor and Collector, before the first day of each September, a certified copy of such last orders for the year following. The Commissioners Courts, in establishing new election precincts, shall divide any city or town into as many election precincts as they may see proper. Cities and towns and towns and villages incorporated under the general laws shall not necessarily constitute election precincts. No precinct shall be made out of parts of two (2) wards.

Sec. 6. Payment for Voting Machines. The County Commissioners Court shall provide for the payment of voting machines to be used in such county in such manner as the Court may deem for the best interest of the

county, and for the purpose of paying for voting machines, such Commissioners Court is hereby authorized to issue bonds, and certificates of indebtedness, warrants, or other obligations to be used for this purpose and no other, which shall be a charge against the county, such bonds, certificates of indebtedness, or other obligations, may be issued with or without interest payable at such time or times as the Commissioners Court may determine, but shall never be issued nor sold for less than par; provided, however, that such Commissioners Court shall issue such bonds, certificates of indebtedness, warrants, or other obligations, to be used for the purpose of payment of voting machines in the same manner and with the same authority as provided for the issuance of warrants, bonds, certificates of indebtedness, or other obligations, by the General Laws of this State. The necessary tax shall be set aside at the time of creating such obligation so as to meet the debt provisions of the Constitution; provided, however, that should the Commissioners Court of any county deem it for the best interest of such county, said Commissioners Court is hereby authorized to contract for the renting of voting machines by such county for use in elections for a term of not more than two (2) years in any one contract of rental. Upon the expiration of such terms of contract of rental such Commissioners Court may renew and/or extend same from time to time. Such contracts shall be made only after advertising for bids in the manner provided by the General Laws controlling the purchases made by such county for county purposes provided and except, however, the Commissioners Court of any county is hereby authorized to accept proposals of rental and/or sale of voting machines after advertising as provided by law wherein the rentals paid by such county for the use of such voting machines or a part thereof may be applied on the purchase price of such machines upon such Commissioners Court determining that it is to the best interest of such counties so to do. Such voting machines shall be the property of the county paying for same and/or renting same, subject to the terms of the rental contract, and when used in any election or primary election, the county is not charged by law with the holding of, such machines shall be leased to the authorities charged with holding such election or primary election, and payment shall be received by the county at such lease price per machine for each election day such machines are used in an election as the Commissioners Court shall fix, but not to exceed ten per cent (10%) of the original cost of such voting machine, as may be required to hold each election or primary election. The term each election or primary election, as herein used, shall mean each election day such machines are used for voting purposes in such elections, and the Commissioners Court in fixing such lease price shall fix a lease price, and payment for same shall be received by the county, for each day such machines are actually used for voting in such election or primary election, and in the event a runoff election or primary runoff election is held, such lease price shall be paid to the county for each whether the same be the first election or primary election or the second and/or runoff election or second and/or runoff primary; and those charged with the holding of such election or primary election shall pay the lease price whether it be a school board, a municipality, a political party, or any other organization or authority.

Sec. 7. Absentee Voting. In counties in which voting machines are adopted for use, the authority charged with holding an election shall within its discretion determine by proper resolution and/or order whether or not voting machines shall be used for the casting of absentee votes at such election, and if it be determined by such authority that voting machines shall be used for the casting of absentee votes at such elec-

tion, a voting machine or machines shall be placed in the county clerk's office, if an election held at the expense of the county, or if a primary election, and if a city or town election in the office of the city or town secretary and if a school district or other election, in a public place designated within the boundaries of such district or election, with the ballot of the election thereon as required by law and those entitled under the law shall cast their vote on such machine or machines as the case may be, under the laws now applicable to absentee voting; except that the machine or machines shall be sealed at the close of the day's voting in the presence of authorized watchers, of all persons interested, if any, and such seal shall be broken in the presence of such authorized watchers, if any, the following morning when voting shall begin, by the person authorized by law and charged as the authority holding such election. When absentee voting is legally concluded at an election or primary election such voting machines shall be locked and sealed in the manner prescribed for precincts, to be kept intact until 7 a. m. of the day of the election or primary election, at which time the machine or machines shall be opened and the vote canvassed by the Election Board holding such election as provided by law, and if a primary election, by the Chairman and the Executive Secretary of the Executive Committee of the political party holding same, and the results of such canvass shall be returned by sealing and delivering same to the proper authority as provided by law and such results and/or returns shall be tabulated and canvassed in the same manner and together with the tabulation and canvassing of the returns from other voting precincts; however, provided that the results of such absentee votes shall not be announced or made public until after 7 p. m. of the day of the election, or primary election, when such results shall be announced and made public together with the general results of the election by proclamation of same as provided by law. Upon such machine and/or machines in use for absentee voting being opened and the vote canvassed the same shall be immediately prepared and set for voting as provided by law and shall be used, if necessary, in any voting precinct of said election or primary election, then being held. Should the authority charged with holding an election determine by such resolution as above provided, that absentee votes cast at such election be cast by a paper ballot, then, and in such event, the authority charged with holding such election shall provide a ballot for the casting of absentee votes as prescribed and provided by the general laws applicable to elections and to absentee voting and those entitled under the law shall cast their vote by such ballot under the laws applicable to absentee voting, providing, however, that on the day of such election and in the presence of the election officers one of the judges of election shall, between the hours of 2 p. m. and 3 p. m. open the carrier envelope only as provided by the laws applicable to absentee voting, announce each and every one of the electors' names and compare the signature upon the application with the signature upon the affidavit on the ballot envelope. In case the election judges find the affidavits duly executed, that the applicant is a duly qualified elector of the precinct and that he has not voted in person at said election, they shall open the envelope containing the elector's ballot in such manner as not to deface or destroy the affidavit thereon, take out the ballot therein contained in the presence of the watchers, if any, without permitting same to be unfolded or examined. Such absentee ballot shall thereupon be endorsed by the presiding officer of such voting precinct in such election and deposited in an "Absentee Ballot Box," provided for such purpose and the name of each elector voting such absentee ballot shall be entered in the poll list and numbered the same as if he had been present and voted

in person as such absentee ballots are deposited in said absentee ballot box. After all such absentee ballots have been deposited in such absentee ballot box, the officers of such election shall designate such of their number as will not interfere with the uninterrupted use of voting machines by the voters during said election, to thereupon immediately proceed to register the votes on machines as provided for in Section 107 of this Act.

Such tally and/or count of such absentee ballots shall be completed and be available for the making of returns at the time of the closing of the polls at such election. If the ballot be challenged by any election officer, supervisor, watcher, party challenger or other person, the grounds of challenge shall be heard and decided according to law including the consideration of any affidavits submitted in support of or against such challenge, provided, however, that all challenges to absentee votes shall be made prior to the casting thereof and if the ballot be not admitted, there shall be endorsed on the back thereof the word "rejected," and if the ballot be admitted, the words, "absentee voter" shall be set down opposite the elector's name on the poll list. All rejected ballots shall be enclosed, securely sealed in an envelope on which words, "rejected absentee ballots" have been written together with the statement of the precinct and the date of the election, signed by the judges and clerks of election and returned in the same manner as provided for the return and preservation of official ballots voted at such election and shall be held by the County Clerk, City Secretary or other person provided by law, thirty (30) days and as much longer thereafter as any court or reviewing authority may direct.

Sec. 8. Form of Ballots on Voting Machines. All ballots shall be printed in black ink on white clear material, of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. In general elections, the party name and a designating letter and number shall be affixed to the name of each candidate, and the name of all candidates of one political party shall be so arranged that a voter may be able to cast his ballot for such candidates as he may desire or to cast one ballot for all the candidates of that political party. In primary elections, however, the ballot shall be so arranged and the lever so locked as to prevent the voting of straight tickets. Should there be so many candidates and/or propositions to be voted upon in any election as to exceed the capacity of one machine, more than one machine shall be provided for each voting precinct, but in all cases where more than one machine is used in a voting precinct, the names of all candidates for any particular office shall be placed on one machine; provided, however, that the authorities charged with holding the election where in their discretion more than one voting machine is necessary to accommodate the number of voters voting in a voting precinct, then, and in that event, as many voting machines shall be provided for each voting precinct as such authorities deem necessary and the same form of ballot containing the names of all candidates and/or propositions arranged in the same manner shall be provided for each machine, and each of the machines so used in each voting precinct shall be identified by alphabetical designation, and in such event, the number placed opposite or along side of the name of each voter after the voter cast his ballot, corresponding to the number on the public numbering counter as herein provided, shall include such alphabetical designation of the machine on which such voter cast his vote.

Sec. 9. Sample Ballots. The authorities charged with holding the election or primary election may provide for each precinct two (2) sample ballots and one model arranged in the form of a diagram showing

such part of the face of the voting machine as shall be in use in that election or primary election. Such sample ballots and model shall be on display in each precinct voting place throughout the time the polls are open and attention shall be especially called to them before each voter uses machine.

Sec. 10. Preparation of Voting Machines. It shall be the duty of the County Clerk of each county where voting machines are used, to cause the proper ballot labels to be placed on voting machines, to cause the machines to be placed in proper order for voting, and it shall be the duty of the proper authority (City Secretary in city elections, County Chairman in primary elections, and County Clerk in other elections) to examine all voting machines in the presence of authorized watchers for any interested persons, before they are sent out to the polling places, to see that all the registering counters are set at zero (000), to lock, in the presence of authorized watchers, all voting machines so that the counting machinery cannot be operated and to seal each one with a numbered seal, a list of which numbered seals and the number on the protective counters, together with the number of the precinct to which it was sent, shall be kept as a permanent record open to any citizen, in the records of the County Clerk. Such inspection and sealing of voting machines shall begin within five (5) days of the day before any election or primary election at which such machines are to be used, and continue until all such machines are sealed. When all machines are locked and sealed, the key to each machine shall be placed in an envelope and sealed, the signature of the County Clerk and the signatures of two (2) watchers of opposed interest, if there be such, placed across the seal, and on the envelope shall be written the number then on the protective counter and the number of the seal of the voting machine, such envelope to be delivered to the presiding officer of each precinct.

It shall be the duty of the Sheriff in an election which the county is charged with the expense of, the duty of the County Chairman in the primary election, the duty of the Mayor in a city election, the duty of the president of a school board in a school election, and the duty of the authority holding such election or primary election of any character, to have delivered a voting machine or machines, to each and every polling place where same is required by law to be used, at least one hour before the time set for the opening of the polls in such voting precinct. After the machine has been delivered, the same authority shall cause such machine to be set up in the proper manner and cause protection to be given so such machine shall be free from molestation and injury. The same authority shall cause to be delivered with each such machine an auxiliary light where necessary properly prepared to be lighted in emergency, so arranged that the light from such will illuminate the face of the machine sufficiently that a voter may be able to read all the names on such machine, and suitable for officers in examining counters. The protective hood and screen of the machine shall be examined to see that they conceal all the actions of the voter properly, while such voter is operating the machine. All poll lists and necessary supplies shall be delivered to the presiding officer at the same time the key or keys to the machine are delivered.

Sec. 11. Instruction of Election Officers. Not less than three (3) days before an election or primary election, the authority charged with holding the same, shall cause to be held a public school of instruction for those who will actually conduct the election or primary election at the polling places, such school to be open to any interested person and notice of such meeting being given to the public press at least forty-eight (48) hours before same is to be held.

Sec. 12. Preliminaries of Opening the Polls. The key or keys to the voting machine or machines shall be delivered to the presiding officer of each precinct at least thirty (30) minutes before time for the opening of the polls, the seal of the envelope containing the same to be unbroken, and the seal shall be broken by the presiding officer only in the presence of at least two (2) authorized watchers for opposing interest (if there be such), and shall only be broken after comparison shows that the number written on the envelope and the number shown in the protective counter are identical. If these numbers are found not to be the same the seal shall not be broken until the County Clerk or his representative shall arrive and deliver the correct keys or until another and properly sealed machine is delivered. If the numbers written on the envelope and the numbers on the seal of the machine are not identical then the envelope shall not be opened and the same procedure as above set out shall govern. But if the numbers written on the envelope and the respective numbers on the seal and on the protective counter are found to be the same, the presiding officer shall open the doors concealing the counters, and before the polls are declared open, the election officials and each authorized watcher for any person interested shall carefully examine each and every counter and see that it registers zero (000). All of those last enumerated then shall examine the ballots and satisfy themselves they are in their proper places on the machine. The election officials shall cause to be conspicuously placed the sample ballots and model for the guidance of the voters. All the persons authorized to be in the polls shall satisfy themselves that the voting machine is properly placed, being at least three (3) feet from any wall or partition or any other obstruction and that the face of the machine is turned toward where the election officials and the public may obtain a clear and unobstructed view of the same at all times, except when the curtain on the machine is closed for the casting of the ballot. The election officials and at least two (2) watchers of opposing interest (if there be such) shall then sign a certificate setting out that the keys were delivered intact, that the numbers on the protective counter and the seal correspond with that on the envelope, that all the counters were set at zero (000) and that the ballot labels were in their proper places. If any counter, however, shall be found not to register zero (000), the presiding officer shall write out a statement to that effect and keep the same prominently posted throughout the day showing the number that counter was found to register, and in filling out the statement of canvass, he shall subtract such number from the number found to register on that counter when the polls close. The machine shall then be opened for voting and the polls formally declared on.

Sec. 13. General Provisions. The presiding officer shall be in general charge of the poll and shall see that one or more of the clerks of the election properly checks off the name of each voter from the poll list before such voter casts his ballot and shall provide for the numbering of tickets by placing a number on a list containing the names of each voter kept for such purposes, corresponding to the number on the public numbering counter opposite or along side of the name of each voter including the alphabetical identification of each machine used in such voting precinct after such voter casts his ballot; that the poll tax certificate or exemption certificate of the voter is stamped "voted" with the date of the particular election or primary election with the rubber stamp provided under the law, or writes "Voted" with the date, with pen and ink if no rubber stamp be provided, and it shall further be the duty of one of such clerks to see that the voting machine is not tampered with and shall attend the machine at all times. He shall inspect the ballot la-

bels after each voter leaves the machine to see that none have been tampered with and to see that the machine has not been injured. He shall see that the coverings of the counter compartments of the machine are never unlocked nor opened so the counters are exposed during voting except for good and sufficient reasons, a statement of which shall be made and signed by all authorized persons in the polls and attached to the returns.

Sec. 14. Instructions and Assistance for voters in the polls. In addition to the sample ballots and model hereinbefore mentioned, which shall be prominently displayed and the particular attention of each voter thereto called by the presiding officer, if any voter after entering the machine, but before the curtains thereof are closed, shall desire further instructions, two watchers of opposing interest (if there be such) under the direction of the presiding officer shall give such instruction without asking, persuading or otherwise trying to induce such voter to vote for or against any ticket, candidate, amendment, question or proposition. Finishing instructions, the three (3) shall retire, whereupon such voter shall close the curtain and vote as in the case of an unassisted voter.

Sec. 15. Manner of Voting. But one voter shall be admitted at a time and after ascertaining if such voter be on the poll list and the certificate marked voted such voter shall proceed to the machine, and no voter shall be permitted to keep the curtain of the machine closed longer than two (2) minutes.

Sec. 16. Voting for Person Whose Name Does Not Appear on the Ballot. Ballots voted for any person whose name does not appear on the ballot shall be designated "irregular" ballots, but such ballots shall be valid and shall be counted as though they had been voted on the voting machine. Should a voter desire to vote for some person for an office whose name does not appear on the ballot, such person shall write the name of the person for whom he desires to vote on the roll of paper provided and designated for such purpose and such ballot shall be counted and included in the canvass officially made from that precinct, but no irregular ballot shall be cast or counted for any person whose name shall appear on the voting machine.

Sec. 17. Unofficial Ballot, Repair and Substitution of Machines. Should the official ballots for any precinct where voting machines are to be used be not delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the County Clerk or the presiding officer of that precinct shall cause other ballots to be prepared, printed or written, as nearly in the form of the official ballots as practicable, and shall cause the ballots so substituted to be used in the same manner, as near as may be, as the official ballots. Such ballots shall be known as unofficial ballots, and a certificate setting out the circumstances of the use shall be made out by the presiding officer and signed by such officer together with every person legally serving in such poll, such certificate to be attached to the canvass from that precinct. Should any voting machine become out of order while being used, it shall, if possible, be repaired or another machine substituted in its place promptly as possible, and the Commissioners Court of any county in the State of Texas in which voting machines have been adopted either in whole or in part, for use in elections and in primary elections, shall be, and it is hereby, authorized and empowered to appropriate funds for servicing, repairing or substituting any such voting machines, on a per diem or on such other basis as to said Court may appear just and proper; provided, however, that in no event shall payment to any one individual hereunder exceed the sum of Ten Dollars (\$10) per day exclusive of mileage.

Sec. 18. Canvass of the Vote and the Proclamation of the Result. As soon as the polls are closed officials thereat shall immediately lock the machine against voting. They then shall sign a certificate stating that the machine was locked and sealed, giving the exact time; such certificate giving the number of voters shown on the public counters, which shall be the total number of votes cast on such machine in that precinct; the number on the seal; the number registered on the protective counter. (This also shall be the procedure at the close of absentees voting when the machines are used for absentee voting prior to election day.) They then shall open the counting compartment in the presence of the watchers, and at least one representative of any newspaper or press association which cares to be represented, giving full view of all the counter numbers. The presiding officer shall under the scrutiny of the watchers, in the order of the offices as their titles are arranged on the machines, read and announce in distinct tones the designating number and letter on each counter for each candidate's name, and the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the result on each Constitutional amendment, bond proposition, or any other question voted on. The vote as registered shall be entered on the statements of canvass in ink by two (2) watchers of opposing interest (if there be such) and verified by the three (3) election officials, such entries to be made in the same order on the space which has the same designating number and letter, after which the figures shall again be verified by being called off in the same manner from the counters of the machines by watchers of opposed interest (if there be such). The returns of the canvass as required by law shall then be filled out, verified, and shall show the number of votes cast for each candidate, the number of votes cast for and against any proposition submitted, and shall be signed by the three (3) election officials and at least two (2) watchers of opposed interest (if such there be). The counter compartments of the voting machine shall remain open throughout the time of the making of all statements and certificates and the official returns and until such have been fully verified, and during such time any candidate or his representative or any representative of any newspaper or press association shall be admitted. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the presiding officer, who shall read the names of each candidate, with the designating number and letter of his counter, and the vote registered on such counter; also the vote cast for and against each proposition submitted. During such proclamation ample opportunity shall be given to any person lawfully entitled to be in the polls, to compare the results announced with the counter dials of the machine and any necessary corrections shall then and there be made, after which the doors of the voting machine shall be locked and sealed with the seal provided, so sealing the operating lever of the machine that the voting and counting mechanism will be prevented from operation. Irregular ballots, properly sealed, and signed shall be filed with the original statement of canvass, which canvass shall be delivered in the same manner and to the same authorities as now provided by law. The presiding officer shall deliver to the County Clerk the keys of the machine enclosed in a sealed envelope across the seal of which shall be written his own name together with that of at least two (2) watchers of opposed interest (if such there be) or the two (2) other election officials, and on this envelope shall be recorded the date of the election or primary election, the number of the precinct, the number of the seal with which the machine was sealed, the number of the public counter and the number of the protective counter.

Sec. 19. Statement of Canvass. The Authority charged with the holding of an election or primary election where voting machines shall be used, shall cause to be prepared a statement of canvass of a form to be approved by the Secretary of State, in the necessary number as now required by law, such statement of canvass to conform with the type of voting machine to be used and the designating number and letter of each candidate (or proposition) shall be printed next to the candidate's name on the statement of canvass. Provided, however, that at the time of the making of the official canvass of said election returns, where voting machines are used in an election, the canvassing board charged with the duty of canvassing said election returns shall, at the request, in writing, of any candidate whose name appears on said election or primary election ballot, or on the petition, in writing, of twenty-five resident citizens of said county, city or of a subdivision thereof, make, in the presence of a District Judge and County Judge of the county in which said election is held, a recheck and comparison of the results shown on the official returns, then in process of being canvassed by the canvassing board, with the results appearing and registered on the counter dials, of each voting machine or voting machines used in said election or primary election; and to enable the canvassing board to make such recheck and comparison it shall be, and hereby is, authorized and empowered to break the seals on each such voting machine or voting machines so used, and at the conclusion of said recheck and comparison, said voting machine or voting machines shall again be sealed up, the necessary corrections, if any, shall be made on the returns, and the result of said election be declared, as shown by the recheck and comparison of the returns of election, with counter dials of the voting machines, as provided by law.

Sec. 20. Preservation of Ballots and Records of Voting Machines. The voting machine shall remain locked against voting for a period of ten (10) days and then shall have the seal broken only on the order of a District Judge having jurisdiction in that county, such order to be entered on the minutes of the District Court of that county, and if in the opinion of such District Judge, contest is likely to develop, shall remain locked for such time as the District Judge may direct; provided, however, such time shall not be for a period of time that will interfere with or prohibit the use of such machines in a subsequent election. Except, that on the order of any Court of competent jurisdiction or on the order of any legislative body the seal may be broken for the purposes of proper investigation and when such investigation is completed, the machine shall again be sealed and across the envelope containing the keys shall be written the signature of the persons or person having broken same. Irregular ballots shall be preserved in the same manner and for the same length of time as now provided by law for other ballots.

Sec. 21. Custody of Voting Machines and the Keys Thereof. The County Commissioners of a county in which voting machines are used shall have general custody and care and repair of such machines, but the County Clerk is charged with the care and custody of the keys and seals for the same. The same authority that caused the delivery of the voting machines shall be charged with the transportation of such machines back into the custody of the County Commissioners and shall furnish all necessary protection to see that such machines are not molested nor injured from the time such machines leave the place where they are regularly stored until they are turned into the custody of the officials of a precinct and from the time that custody ceases on the part of the

precinct officials and the machines are returned to the place of regular storage.

Sec. 22. Provisions for Recanvass of Vote. The same authority as now charged by law may apply to a district judge for an order to break the seals of a voting machine for the purpose of recanvassing the vote should same become necessary, whereupon all the other articles in the Revised Civil Statutes of Texas, 1925, shall be followed in making such recanvass and the machines shall be resealed as herein provided. However, nothing herein or elsewhere contained shall authorize any change in the official returns of any canvass where at least two (2) watchers of opposed interests have signed the same.

Sec. 23. Application of other Laws; Fraud and Perjury. The provisions of all other laws relating to the conduct of elections or primary elections, shall so far as practicable, apply to the conduct of elections and primary elections where voting machines are used, unless herein otherwise provided; provided, however, it is declared to be the public policy of this State that the provisions herein, providing for the use of voting machines at elections, are regulations to detect and punish fraud, and to preserve the purity of the ballot box; and any voter who fraudulently or illegally casts a ballot, or who casts a fraudulent or illegal ballot upon a voting machine, at any election (after the casting of such fraudulent or illegal ballot, or such fraudulent or illegal casting of a ballot has been established by final adjudication before a court of competent jurisdiction and by competent evidence), shall be compelled and required to disclose the names of the candidate or candidates for whom he cast such ballot at such election, and the ballot cast by him upon any question or questions at such election in any proceedings instituted under the laws of this State in any court of competent jurisdiction, and whoever in such proceedings shall swear and/or testify falsely, shall be deemed guilty of the offense of perjury, and shall be subject to the penalties provided for such offense by the laws of this State.

Sec. 24. Representation. The authorities charged with holding an election or primary election are directed wherever possible, in the naming of election officers, to name for each precinct, in which only one voting machine is used, a presiding officer and three (3) clerks for such precinct of opposed interest in that election or primary election and in each precinct, in which two (2) or more voting machines are used, a presiding officer and four (4) clerks for such precinct of opposed interest in that election or primary election. If additional machines are used above two (2), an additional clerk may be employed for each additional two (2) machines. The number of judges and clerks herein authorized to be appointed, in all counties in which elections are conducted by the use of voting machines, shall be controlling and shall apply regardless of the provisions of Sections 15 and 16. But each political party concerned in an election is entitled to name one watcher for each voting precinct where voting machines are used, said watcher to be recognized by the presiding officer of that precinct upon the presentation of a certificate signed by the County Chairman of that political party, and any candidate for a State office, the State Senate, any candidate for Representative in the House of the Legislature of Texas, or any candidate for District Judge, or any one-fifth ($\frac{1}{5}$) of the candidates for any county offices, or any one-fifth ($\frac{1}{5}$) of the candidates for precinct offices; or any candidate for mayor, or any candidate for city commissioner in municipalities, or any three (3) candidates in a school election, or the proponents or the opponents of a bond issue, may name one watcher for each precinct in an election or primary election for each precinct where voting machines are

used. Any candidate for the United States Senate or Representative in the House of the United States Congress may name one watcher for each election precinct where a voting machine is used. The candidate desiring representation by a watcher shall sign a certificate setting out the name of the person, the number of the precinct where such watcher is to serve, such certificate to bear the signature of the candidate or candidates entitled to representation, together with the signature of the bearer. The presiding officer of the election must require a counter-signature and preserve the certificate of the bearer to make certain he is the identical person referred to in the certificate but cannot for any other reason refuse to permit such watcher to serve. For their services election officials and employees shall be paid a sum to be set by the authority charged with holding the election or primary election, but not less than the amount set now by law and not more than Ten Dollars (\$10) per day, provided, however that no election official shall be paid more than the pro-rata part of two (2) hours overtime after the polls are closed. Watchers, a necessary adjunct to an election with voting machines, may be paid by the interest they represent, but not to exceed Ten Dollars (\$10) per day, provided, however, that the authority holding such election shall not pay for the services of such watchers.

Sec. 25. Definitions. The list of candidates and offices and/or propositions to be voted for or against, used or to be used on the front of the voting machine shall be deemed official ballots for the purpose of precinct using machines.

The provisions of this Act shall apply only in counties in which such voting machine is adopted for use at elections.

The word "ballot" as used herein means that portion of the cardboard or other material within the ballot frames containing the name of the candidate and the office, or statement of a Constitutional Amendment, bond issue or other propositions with words "yes" or "no" for voting for or against, except when referring to irregular or unofficial ballots and except where such word is used in connection with the casting of a vote by a voter and in such event the word "ballot" is defined as the casting of a secret vote.

The term "the numbering of tickets" is defined to mean the numbering of the votes and/or ballots as they are cast by the voters at an election.

The terms "protective numbering counter" and/or "protective counter" mean a separate counter built into the machine which can not be reset and which records the total number of movements of the operating lever.

The terms "public numbering counter" and/or "public counter" mean a device in full view of the election officials except while the voter is voting which records the number of the voter's vote and is cumulative of the number of votes cast on the machine at the election being held.

The term "watcher" is similar to supervisor in meaning but he is an official of the election in this Act.

80. Transportation of voting machines; counties of 300,000-355,000

In all counties in the State of Texas having a population of three hundred thousand (300,000) inhabitants or more, and less than three hundred and fifty-five thousand (355,000) inhabitants, according to the last preceding Federal Census, and where such counties have purchased and adopted voting machines for the purpose of holding any and all elections in such counties, it shall be the duty of the county auditor upon the order of the Commissioners Court to advertise for bids for the hauling

and/or transporting such voting machines to the various precincts of such counties, such advertisement to be inserted in a newspaper, published and having a general circulation in such counties at least one week prior to the date of the election. All bids shall be opened at a regular or called meeting of the Commissioners Court and contract for hauling and/or transporting said voting machines to the place of voting including those precincts located both within and without the city limits of the county seat shall be let to the lowest and best bidder; provided the Commissioners Court shall reserve the right to reject any and all bids if in their judgment such bids are unsatisfactory.

Art. 7.16. Runoff elections in cities and towns of over 200,000; voting machines; ballot

Section 1. In all cities and towns in this State, whether incorporated under General or Special Law, (including home rule cities) having a population in excess of two hundred thousand (200,000) inhabitants, according to the last preceding or future Federal Census the election of candidates for all municipal offices shall be determined in the following manner:

(a) Election by majority vote. Any candidate for office in any duly held municipal election receiving a majority of all the votes cast for the office for which he is a candidate shall be elected to such office.

(b) In the event any candidate for either of said offices fails to receive a majority of all votes cast for all the candidates for such office at such election the Mayor of said city shall, on the first day following the completion of the official count of the ballots cast at said first election, issue a call for a second election to be held in said city on the second Tuesday following the issuance of such call, at which said second election the two (2) candidates receiving the highest number of votes for any such office in the first election at which no one was elected at said first election by receiving a majority of all votes cast for all candidates for such office, shall again be voted for. The official ballot to be used at said second election shall be prepared by the City Clerk or City Secretary and the name of no person shall appear thereon unless he was a candidate for the office designated at said first election, and the two (2) persons receiving at said first election the first and second highest number of votes cast for candidates for such office at such first election shall be entitled to have their names printed on said official ballot in the order of their standing in the computation of the votes cast for such candidates at said first election as candidates at said second election for such office; provided, however, that in the event any person who was a candidate at said first election and who shall be entitled to become a candidate at said second election shall fail to request that his name shall appear on the official ballot therefor at such second election as herein provided, the candidate for such office standing next highest in the computation of votes shall succeed to the rights of such candidate who failed to request that his name appear upon the ballot at said second election; provided further, that two (2) candidates for such office at said first election shall be entitled to become candidates therefor at said second election, which two (2) candidates shall be those two (2) among such candidates as shall stand highest respectively in the computation of all votes cast for all the candidates for such office at said first election as shall file written request to be placed on the official ballot as candidates for such office at said second election. In the event of a tie in the vote for the two (2) leading candidates for any office at said first election, said office shall be filled at a second election as herein provided for, at which such candidates so tied in said first election may again

become candidates. In the event such candidates who tied in said first election, or either of them, shall fail so to do, the two (2) candidates for such office who are next highest in the computation of votes therefor and who desire to become candidates therefor at said second election shall be entitled so to do in order of the number of votes they respectively received at said first election. In the event of a tie between the two (2) candidates for any office at said second election, they shall cast lots to determine who shall be elected to such office.

Section 2. This law shall not apply to any city whose charter now, or hereafter, provides for the selection of its officers by means of a preferential type of ballot; provided that such city does not use voting machines as the legal method of voting. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 81.

Art. 7.17. Inapplication to elections in which voting machines used

The provisions of this Act shall not apply to elections in which voting machines are used as provided elsewhere in this Code. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 82.

CHAPTER EIGHT

CONDUCTING ELECTIONS AND RETURNS THEREOF

Art.

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Article 8.01. Officers of election sworn

Before opening the polls, the presiding judge of election and each of the other judges and clerks shall repeat in an audible voice: "I solemnly swear that I will not in any manner request or seek to persuade or induce any voter to vote for or against any candidate or candidates, or for or against any proposition to be voted on; and that I will faithfully perform this day my duty as officer of the election, and guard as far as I am able, the purity of the ballot box, so help me God." Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 83.

Art. 8.02. Preliminary arrangements

The judges and clerks of election for each precinct, and supervisors if any, shall meet at the polling place at least half an hour before the time for opening the polls, and shall proceed to arrange the guard rail, the space within the guard rail, the voting booths, if any, and the furniture for the orderly and legal conduct of the election. The Judges of election shall then examine the ballot boxes and the blank official ballots, and shall deposit such ballots as are found to be defective in printing in ballot box No. 4 for mutilated or returned ballots. They shall examine the sample ballots, instruction cards, distance markers, tally sheets, return sheets, certified list of voters, rubber stamps and all things required for the election. The package of official ballots shall remain in the custody of the judges and the polling clerks, and shall not be opened until the morning of the election and at the polling place. The judges shall cause to be placed at the distance of one hundred (100) feet from the entrance of the room at which the election is held visible distance markers in each direction of approaches to the polls, on each of which shall be printed in large letters the words: "Distance markers. No electioneering or loitering between this point and the entrance to the polls." The judges shall examine the ballot boxes and then relock them, after all present can see they are empty. The ballot clerks with official ballots, the presiding officer of the election, the poll clerk, the election supplies and the certified lists of qualified voters for the precinct, and the supervisors, if any, shall be as conveniently near each other as practicable within the polling place. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 84.

Art. 8.03. Instruction card posted

Before the election begins, one instruction card shall be posted conspicuously near each distance marker and one posted up in each voting booth where it can be read. When there are no voting booths, one shall be posted up in plain view at the place prepared for the voter to make out his ballot. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 85.

Art. 8.04. Presiding judge absent

If no presiding judge was appointed or fails to act or fails to attend on election day, the voters present may appoint their own presiding officer, who is a qualified voter, and they may also appoint the necessary assistant judges of election. When a presiding officer who has been appointed by a Commissioners Court fails to act in conducting an election, and one is selected by the voters present, the judges and clerks at such election shall, in making their returns of election, certify to that fact, and state that the acting judges were appointed by the voters present. When an assistant judge or clerk having been appointed fails to act at the opening of the polls or during the election, the presiding judge shall appoint in his place another with the same qualifications, and return a

certificate of such appointment with each election return. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 86.

Art. 8.05. Power of presiding judge

Judges of election are authorized to administer oaths to ascertain all facts necessary to a fair and impartial election. The presiding judge of election, while in the discharge of his duties as such, shall have the power of the district judge to enforce order and keep the peace. He may appoint special peace officers to act as such during the election and may issue warrants of arrest for felony, a misdemeanor or breach of peace committed at such election, directed to the sheriff or any constable of the county, or such special peace officer, who shall forthwith execute any such warrants, and, if so ordered by the presiding judge, confine the party arrested in jail during the election or until the day after the election, when his case may be examined into before some magistrate, to whom the presiding judge shall report it; but the party arrested shall first be permitted to vote, if entitled to do so unless he is drunk from the use of intoxicating liquor, then he shall not be permitted to vote until he is sober. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 87.

Art. 8.06. To inspect ballot boxes

Before the balloting begins, the presiding judge shall unlock ballot box No. 1, and after all the officers of the election and supervisors have inspected the same to see that it is empty relock it and place it within view, where it shall remain until removed to make room for ballot box No. 2. A like examination shall be made of ballot box No. 2. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 88.

Art. 8.07. Present poll tax receipt

No citizen shall be permitted to vote, except as provided in the Constitution of Texas unless he first presents to the judge of election his poll tax receipt or certificate unless the same has been lost or mislaid, or left at home, in which event he shall make an affidavit of that fact, which shall be left with the judges and sent by them with the returns of the election; provided, that, if since he obtained his receipt or certificate he removes from the precinct or county of his residence, he may vote on complying with other provisions of this Code. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 89.

Art. 8.08. Announcer

One (1) election judge shall receive from the voter his poll tax receipt or certificate of exemption, when he presents himself to vote; the voter shall announce his name, and the judge after comparing the appearance of the party with the description given in the certified list of qualified voters of the precinct made out by the county collector, and being satisfied that it accords therewith, shall pronounce in an audible voice the name of the voter, and his number as given in the list of qualified voters. If the voter has lost, mislaid or left at home his receipt or certificate, and shall present his affidavit of that fact, and if his appearance tallies with that given for the same number and name on the list of qualified voters, or if the voter presents his affidavit of removal from some other precinct or county, in cases where the same is permitted by this title, together with his receipt or certificate or affidavit of the loss thereof, and the judges of election shall be satisfied that he is a qualified voter, the judge shall in like manner pronounce in an audible voice the name and number of the elector on the certified list of quali-

fied voters with the word, "correct." Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 90.

Art. 8.09. Examination of challenged voter

When a person offering to vote shall be objected to by an election judge or a supervisor or challenger, the presiding judge shall examine him upon an oath touching the points of such objection, and, if such person fails to establish his right to vote to the satisfaction of the majority of the judges, he shall not vote. If his vote be received, the word, "sworn," shall be written upon the poll list opposite the name of the voter. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 91.

Art. 8.10. Vote challenged

In any election or primary, State, county, or municipal, when the right of any elector to vote is challenged, the following proceedings shall be had:

1. The judges of election shall refuse to accept such vote of such elector unless in addition to his own oath he proves by the oath of one well known resident of the precinct or ward that he is a qualified voter at such election and in such precinct.

2. When such vote is accepted, the word "challenged" shall be written on the ballot, and the judges shall cause the clerk of election to make a minute of the name of the elector and the party testifying under oath as to his qualifications, and such memoranda shall be kept by the county clerk of the county for six (6) months after such election is held, subject to order of the district judge. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 92.

Art. 8.11. Delivery of ballot

After fixing his signature on the back of each ballot, the election judge shall check all ballots to see that they are properly numbered, removing any mutilated or unnumbered ballots, thoroughly disarrange and mix the ballots so that they no longer are in consecutive numbered sequence or in any sequence of arithmetic or geometric progression, and then place the ballots face down in a stack or stacks from which each voter shall be allowed to take his own ballot without the number being known to or written down in any manner by the election judge. The election judge shall place a notation on the list of voters showing that the particular person has voted, but shall not make any record of his ballot number. When an election judge is satisfied as to the right of the citizen to vote the judge shall stamp in legible characters with a stamp of wood or rubber, the poll tax receipt or the certificate of exemption with the words: "Voted on _____ day of _____ A.D., 19____," or write the same words in ink and then return said receipt or certificate to the voter, and shall at the same time allow the voter to select his official ballot as above set out. The voter shall then immediately retire to a voting booth or a place prepared for voting by the election officers, and there prepare his ballot in the manner provided by law. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 93.

Art. 8.12. Marked ballot

At either a general, special or primary election, any judge may require a citizen to answer under oath before he secures an official ballot whether he has been furnished with any paper or ballot on which is marked the names of any one for whom he has agreed or promised to vote or for whom he has been requested to vote, or has such paper or marked ballot

in his possession, and he shall not be furnished with an official ballot until he has delivered to the judge such marked ballot on paper, if he has one. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 94.

Art. 8.13. Aid to voter

Not more than one person at the same time shall be permitted to occupy any one compartment, voting booth or place prepared for a voter, nor shall any assistance be given a voter in preparing his ballot, except when a voter is unable to prepare the same himself because of some bodily infirmity, such as renders him physically unable to write or to see, in which case two (2) judges of such election shall assist him, they having first sworn that they will not suggest, by word or sign or gesture, how such voter shall vote; and they will confine their assistance to answering his questions, to naming candidates, and the political parties to which they belong, and that they will prepare his ballot as such voter himself shall direct; provided that the voter must in every case explain in the English language how he wishes to vote, and no judge of the election shall use any other than the English language in aiding the voter, or in performing any duty as such judge of the election. Where any assistance is rendered in preparing a ballot other than as herein allowed, the ballot shall not be counted, but shall be void for all purposes. If the election be a general election, the judges who assist such voters shall be of different political parties, if there be such judges present, and if the election be a primary election one or more supervisors may be present when the assistance herein permitted is being given, but each supervisor must remain silent except in cases of irregularity or violation of the law. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 95.

Art. 8.14. Officers not to electioneer

No election judge, clerk or other person connected with the holding of an election, shall on election day, indicate by words, sign, symbol or writing to any citizen, how he shall or should not vote; provided, nothing herein shall interfere with the operation of the preceding Section. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 96.

Art. 8.15. Stub Box

There shall be prepared by the county clerk a stub box, as all other boxes for election, except the opening thereof shall not exceed one-sixteenth, (1/16) of an inch in width and two and one fourth (2 1/4) inches in length, and it shall then be submitted to the district clerk of the county, who shall seal the box by placing a short ribbon through the hasp on the box and securing the ends of said ribbon with two (2) gummed seals which shall be sealed together by affixing thereto the seal of the court, so as to make it impossible to open the box without breaking the seal; the district clerk further shall prepare in triplicate a certificate showing the number of the box, the date of the election, and the nature of the election. He shall place one (1) copy of this certificate in the box before sealing it, attach one (1) copy to the outside of the box, and retain one (1) copy in his files. This box shall be delivered to the election judge at the same time the regular ballot boxes are distributed, and the election judge shall return this said box to the district clerk at the time he delivers the regular ballot boxes to the designated place. Upon its return, the district clerk shall keep the box secure, as other papers of the district court, and shall allow no one to open the box except by order of the district court, upon the trial of an election contest involving the contents of said box. The box shall be treated as other papers of the

district court with the exception that it shall not be opened except by order of the court, and the court further shall have the power to punish anyone found guilty of violating the provisions of this Section as contempt of court.

The district clerk shall keep this box for a period of at least sixty (60) days (unless the contents of said box shall involve an election contest) after the date of the election at which time the contents of the box shall be destroyed by fire under the direction of the district judge and in the presence of the county judge and district clerk.

Depositing Ballots. When a voter who is voting in person shall have prepared his ballot, he shall immediately detach therefrom the perforated stub and affix his signature to the back of the same and deposit it in the stub box before depositing his ballot and without disclosing to anyone the number of his stub. Should the voter be unable to sign his name, he shall place the stub face down so as not to expose the number of his stub and he shall sign the same with an "X" with the election judge placing the voter's name in the election judge's own handwriting, and the voter shall then drop the stub in the stub box before the voter deposits his ballot. The voter shall then fold the ballot so as to conceal the printing thereon, and so as to expose the signature of the presiding judge on the back of the ballot, then deposit the ballot in the proper ballot box, and unless the ballot is deposited in such ballot box and the stub in the stub box by the voter in person, the same shall not be counted as a vote in such election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 97.

Art. 8.16. Mutilated ballots

At any general or primary election no voter shall be entitled to receive a new ballot in lieu of one mutilated and defaced, until he first return such ballot. No one shall be supplied with more than three (3) ballots in succession, when they are mutilated or defaced. A register shall be kept by the clerks as the voting progresses of the mutilated or defaced ballots which shall be deposited in box No. 4. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 98.

Art. 8.17. Bystanders excluded

From the time of opening the polls until the announcement of the results of the canvass of votes cast and the signing of the official returns, the boxes and official ballots shall be kept at the polling place in the presence of one or more of the judges, and supervisors, if any. No person, except those admitted to vote, shall be admitted within the room where the election is being held, except the judges, clerks, persons admitted by the presiding judge to preserve order, and supervisors of election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 99.

Art. 8.18. Defective ballots in box No. 4

In the case of any general, special, or primary election, in ballot box No. 4 shall be deposited, in addition to ballots defectively printed, all defaced and mutilated ballots, and, when the polls are closed, all the ballots that have not been voted. The box shall be locked and so returned sealed to the county clerk, with a statement which shall be placed therein signed by the presiding judge of the number of ballots received by him, the number of mutilated or defaced ballots that the box contained, and also the number of ballots not given to voters, as well as those defectively printed, so that, after adding such numbers, all ballots delivered to the election officers may be accounted for. Such ballot box shall, when the returns of votes cast are canvassed by the Commissioners Court, or other authority as is provided for by law, be opened, the ballots counted and a

record made of what they found to be its contents. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 100.

Art. 8.19. Deposit and count

At the expiration of one hour after voting has begun, the receiving judges shall deliver ballot box No. 1 to the counting judges, who shall at once deliver in its place ballot box No. 2, which shall again be opened and examined in the presence of all the judges and securely closed and locked; and, until the ballots in box No. 1 have been counted, the receiving judge shall receive and deposit ballots in box No. 2. Ballot box No. 1 shall, on its receipt by the counting judges, be immediately opened and the tickets taken out by one of them when he shall read and distinctly announce while the ticket remains in his hand, the name of each candidate voted for thereon, which shall be noted on the tally sheet, and shall then deliver the ballot to the other counting judge, who shall place the same in box No. 3, which shall remain locked and in view until the counting is finished, when said box shall be returned with the other boxes, locked and sealed, to the county clerk, the presiding judge shall deliver the key or keys to the sheriff as provided by law. Ballot boxes Nos. 1 and 2 shall be used by the receiving judge and the counting judge alternately, as above provided, as often as the counting judge has counted and exhausted the ballots in either box. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 101.

Art. 8.20. Examining ballots

No officer of election shall unfold or examine the face of a ballot when received from an elector, nor the endorsement on the ballot, except the signature of the judge, or the words stamped thereon, nor shall he permit the same to be done; nor shall he examine or permit to be examined the ballots after they are deposited in a ballot box, except as herein provided for in canvassing the votes, or in cases especially provided by law. No official of the election shall make any note of the number of the ballot or any note that would make possible for the identification of a ballot delivered to a voter. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 102.

Art. 8.21. Ballots not counted

The counting judges and clerks shall familiarize themselves with the signature of the judge who writes his name on each ballot that is voted, shall count no ballot where two (2) or more are folded together, or is unnumbered. If the names of two (2) or more persons are upon a ballot for the same office, when but one person is to be elected to that office, such ballot shall not be counted for either of such persons. Likewise no ballot shall be counted if it is found to be fraudulent, but in the absence of a showing of fraud the mere failure of the presiding judge to sign the ballot shall not make any such ballot illegal. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 103.

Art. 8.22. If nominee dies before election

If a nominee dies or declines the nomination before the election, and no one is nominated to take his place, the votes cast for him shall be counted and return made thereof; and, if he shall have received a plurality of the votes cast for the office, the vacancy shall be filled as in case of a vacancy occurring after the election.

If a candidate in the first primary dies after the deadline for filing, his name shall be printed on the primary ballot and the votes cast for him shall be counted and returned for him. If such a deceased candidate receives a majority of the votes, the proper executive committee shall

choose a nominee and certify such name to the County Clerks concerned to be printed on the general election ballot. If such a deceased candidate is one of the two (2) highest candidates in that race in the first primary and if no one has a majority vote, the two (2) living candidates with the highest votes shall be certified to have their names printed on the second primary ballot. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 104.

Art. 8.23. Announcement of vote

It shall not be unlawful for any presiding judge of any election to reveal at any time the number of votes that have been cast up to that time, but it shall be unlawful for any one connected with the holding of an election, before the hour for closing the polls, to reveal any information as to the votes that have been received for or against any proposition or candidate, or as to the candidate which is leading or trailing in the tabulation of the votes. Anyone who is convicted of violating this Section shall be fined not to exceed One Thousand Dollars (\$1,000). Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 105.

Art. 8.24. Status of count announced

Immediately upon the closing of the polls, and at intervals of two (2) hours thereafter, one of the judges of election shall make a correct but unofficial memorandum of the total number of votes counted for each candidate at that time, such memorandum being in the order in which the names of the candidates appear upon the official ballot; and thereupon he shall publicly announce from such memorandum, the status of the count at the door of the building where the counting is in progress. This memorandum shall thereafter be accessible to the public, and especially to newspaper reporters who may call for information; and the presiding judge and associate judge may furnish reporters information concerning the status of the count at other times after the polls have been closed. The announcement of the status of the count shall continue, as aforesaid, until the count has been completed, when a correct but unofficial announcement of the total number of votes received by each candidate shall be made as above provided. In all general, special or primary elections, the presiding judge of election shall, upon the completion of the count, immediately transmit by telephone or by more expeditious means, if available, to the office of the county clerk if the election be a general or special election, or to the county chairman, if a primary election, an unofficial but complete report of the number of votes cast for each candidate, and/or cast for or against each proposition submitted to the voters for determination. No judge, clerk, supervisor or other officer of election shall make any statement, or give any information in any manner, of the number of votes cast for or against any candidate or for or against any proposition submitted to the people, or convey to any person his opinion regarding the state of the polls until after the closing thereof, and then only as herein expressly permitted. The provisions of this Section shall apply to all elections, general, special or primary. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 106.

Art. 8.25. Tabulation of unofficial returns

Section 1. The county clerk in case of general or special election, or the county chairman if a primary election, shall tabulate such unofficial returns when received, and at convenient intervals until midnight of election day shall announce or have announced at the courthouse door, or some other designated place, the total number of votes, as far as tabulated at the time, counted for each candidate, and/or for or against each

proposition submitted to the voters for determination. When returns from each precinct of the county shall have been tabulated the county clerk or county chairman shall immediately prepare an unofficial memorandum of the total number of votes received by each candidate, and/or cast for or against each proposition submitted to the people, and shall post a copy of the same at the courthouse door or at some other designated public place in the county.

Section 2. For receiving unofficial returns by telephone and tabulating them as herein provided, the county clerk or county chairman and assistants employed in the work shall receive the same compensation per hour as allowed precinct judges of election.

Section 3. Charges for telephone or other service in transmitting unofficial returns to the county clerk in general or special elections shall be payable out of the general fund of the county. Charges for such services in primary elections shall be payable out of the funds of the political parties holding such elections.

Section 4. The tabulation of unofficial returns shall be preserved for public inspection until such time as official returns shall have been tabulated; thereafter, the unofficial tabulation may be destroyed.

Section 5. In precincts using voting machines, where absentee ballots have been voted by mail, said ballots shall be opened between two p.m. and three p.m. of the day of the election. If there be more than one absent voter's ballot entitled to be cast, they shall, without being unfolded, be thoroughly intermingled in some proper manner, after which they shall be unfolded and, under the personal supervision of all the judges, be registered on the voting machine the same as if the absent voter had been present and voted in person. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 107.

Art. 8.26. Privilege from arrest

In all cases except treason, felony or breach of peace, voters shall be privileged from arrest during their attendance at elections, and in going to and returning therefrom. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 108.

Art. 8.27. Loitering near polls

It shall be unlawful for any sound truck to approach within one thousand (1,000) feet of a polling place during the hours the polls are open for the purpose of making any political speeches or electioneering for any proposition or candidate. The election judges shall prevent loitering and electioneering while the polls are open, within one hundred (100) feet of the door through which voters enter to vote, and within one hundred (100) feet of the place where the voter is required to prepare his ballot; and, for this purpose they may appoint a special constable to enforce this authority. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 109.

Art. 8.28. Disabled voter

If any voter is physically unable to enter the polling place without assistance, two (2) of the judges of the election or primary may deliver an official ballot to him at the entrance of the polling place and permit him to make out his ballot and cast it for him. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 110.

Art. 8.29. Return of elections

When the ballots have all been counted, the managers of the election in person shall make out triplicate returns of the same certified to be

correct, and signed by them officially, showing: First, the total number of votes polled at such box; second, the number polled for each candidate; one of which returns, together with the poll lists and tally lists shall be sealed up in an envelope and delivered by one of the precinct judges to the county judge of the county; another of said returns, together with poll lists and tally lists, shall be delivered by one of the managers of election to the county clerk of the county to be kept by him in his office open to inspection by the public for twelve (12) months from the day of the election; and the other of said returns, shall be kept by the presiding officer of the election for twelve (12) months from the day of the election. In case of vacancy in the office of county judge, or the absence, failure or inability of that officer to act, the election returns shall be delivered to the county clerk of the county who shall safely keep the same in his office, and he, or the county judge, shall deliver the same to the Commissioners Court on the day appointed by law to open and compare the polls. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 111.

Art. 8.30. Time for report by election judges

The presiding judges in the several election precincts in this State, in general and special elections, shall forward the written returns of said election to the county judge of their respective counties in this State within thirty-six (36) hours after all votes have been counted and tabulated; which said count and tabulation must be completed within twenty-four (24) hours after the closing of the polls; and said county judges shall, within forty-eight (48) hours after the returns have been canvassed by the Commissioners Court, as provided by law, forward by mail to the Secretary of State complete returns of the general and special elections in their respective counties. Provided that if such county judge fails or neglects to make such report the county clerk is hereby authorized to forward by mail to the Secretary of State complete returns of the general and special elections in their respective counties, and provided further that if both the county judge and the county clerk shall neglect or fail to make such report it shall be the duty of the Secretary of State to request by mail, telephone or telegraph immediately such report, and in case no report is had from such county within ten (10) days from the day of the election, it shall be the duty of the Secretary of State to send a special messenger to such county to obtain from the proper officials a complete return of such election and the expense of such messenger shall be paid from the general fund of such county. Provided this Section shall in nowise be construed as repealing Section 122 [art. 8.40]. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 112.

1951 Amendment

Former art. 3026a of Vernon's Ann.Civ.St., from which art. 8.-30 of the Election Code was derived, was amended by Acts 1951, 52nd Leg., p. 575, ch. 333, § 1, to read as follows:

"The presiding judges in the several election precincts in this State, in General and Special elections, shall forward the written returns of said election to the County Judge of their respective counties in this State within thirty-six (36) hours after all votes have been counted and tabulated, which said count and tabulation must be completed within twenty-four (24) hours after the closing of the polls; and said County Judges shall, within forty-eight (48) hours after the returns have been canvassed by the Commissioners Court; as provided by law, forward by mail to the Secretary of State complete returns of the General and Special elections in

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

their respective counties. Provided that if such County Judge fails or neglects to make such report the County Clerk is hereby authorized to forward by mail to the Secretary of State complete returns of the General and Special elections in their respective counties, and provided further that if both the County Judge and the County Clerk shall neglect or fail to make such report it shall be the duty of the Secretary of State to request by mail, telephone or telegraph immediately such report, and in case no report is had from such county within ten (10) days from the date of the election, it shall be the duty of the Secretary of State to send a special messenger to such county to obtain from the proper officials a complete return of such election and the expense of such messenger shall be paid from the general fund of such county. Provided this section shall in nowise be construed as repealing Article 3036, Revised Civil Statutes, 1925."

Article 3026a was repealed by the Election Code, Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 248 [art. 14.12], effective January 1, 1952, with saving clause in art. 247 [art. 14.11] that nothing in such Act shall be construed to nullify or repeal any Act passed at the Regular Session of the 52nd Legislature, 1951.

Art. 8.31. To be stored

One of the precinct judges shall deliver the returns of election with certified lists of qualified voters, with all stationery, rubber stamps and blank forms and other election supplies not used, to the county judge within twenty-four (24) hours after the votes have been counted. He shall provide for the safe storage of the voting booths in some place and notify the county judge. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 113.

Art. 8.32. Ballots and copy of report of returns delivered to county clerk; announcement

Immediately after counting the votes by the managers of the election, the presiding officer shall place all the ballots voted, together with one (1) poll tax list and one (1) tally list, into a wooden or metallic box, and shall securely fasten the box with nails, screws, or locks, the key or keys shall be delivered to the sheriff, as provided by law, and he shall immediately, in no case later than thirty-six (36) hours after the closing of the polls, deliver said box to the county clerk of his county whose duty it shall be to keep the same securely. And it shall be unlawful for the county clerk or anyone else to burn or otherwise destroy these ballots and records, or permit it to be done, except where provided for by the law. Anyone violating the provisions of this Section upon conviction shall be fined not to exceed One Thousand Dollars (\$1,000). Also, the presiding judge shall deliver a copy of the report of the returns to said county clerk, together with the ballot box, and the clerk shall immediately announce the returns of the election in the precinct reporting, and shall post said returns on a bulletin board within his office. In event of any contest growing out of elections within six (6) months thereafter, the county clerk shall deliver said ballot box to any competent officer having process therefor, for any tribunal or authority authorized by law to demand such ballot box; provided that all questions arising at any election box shall be settled and determined by the presiding officer and the judges, any law to the contrary notwithstanding. If no contest arose out of the election within six (6) months after the day of such election, said clerk shall destroy the contents of said ballot box by burning the same. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 114.

Art. 8.33. To retain poll and tally list

The presiding officer shall retain in his custody one return sheet, one poll list and one tally list of the election, and shall keep the same for six (6) months after election, subject to the inspection of anyone interested in such election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 115.

Art. 8.34. Commissioners to open returns

On the Monday next following the day of election or sooner, the Commissioners Court shall open the election returns and canvass the result, recording the state of the polls in each precinct in a book to be kept for that purpose; provided, that, in the event of a failure from any cause of the Commissioners Court to convene on the Monday following the election to compute the votes, then said court shall be convened for that purpose upon the earliest day practicable thereafter. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 116.

Art. 8.35. Returns not canvassed

No election returns shall be opened or canvassed unless the same have been returned in accordance with the provisions of this Code. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 117.

Art. 8.36. Certificates of election

After the canvass of the result of an election has been made as provided for in this title, the county judge shall deliver to the candidate or candidates for whom the greatest number of votes have been polled for county and precinct officers a certificate of election, naming therein the office to which such candidate has been elected, the number of votes polled for him and the day on which such election was held and shall sign the same and cause the seal of the county court to be thereon impressed. If the county constitutes a senatorial or a representative district of itself, the Commissioners Court shall at the same time canvass the votes polled for such district officers; and the county judge shall give a like certificate of election, as provided herein to the person receiving the highest number of votes for members of the Legislature, and shall also transmit a duplicate of such certificate to the Secretary of State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 118.

Art. 8.37. Returns for certain State and district officers

In all elections for State or district officers, including presidential electors, except members of the Legislature, the county judge shall, within forty-eight (48) hours after the Commissioners Court shall have opened the returns and canvassed the result, as provided in Section 116 [art. 8.34], make out duplicate returns of the election; one of which he shall immediately transmit to the seat of government of the State, sealed in an envelope, directed to the Secretary of State; and endorsed, "Election Returns for _____ county, for _____" (filling the first blank with the name of the county and the other blank with the name of the office for which the election was held, or a designation of the proposed Amendments to the Constitution voted upon, as the case may be); and the other of such returns shall be deposited in the office of the clerk of the county court of the county where such election was held. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 119.

Art. 8.38. Such returns counted

On the seventeenth day after the election, the day of election excluded, and not before, the Secretary of State in the presence of the Gov-

ernor and Attorney General, or in case of vacancy in either of said offices, or of inability or failure of either of said officers to act, then in the presence of either one of them, shall open and count the returns of the election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 119.

Art. 8.39. Governor to give certificate

When the returns have been counted, the Governor shall immediately make out, sign and deliver a certificate of election, with the seal of the State thereto affixed, to the person or persons who shall have received the highest number of votes for each or any of said offices. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 120.

Art. 8.40. Returns for Governor and Lieutenant Governor

Each county judge shall promptly make duplicate returns of the election for Governor and Lieutenant Governor, carefully sealed in an envelope, one of which shall be transmitted to the seat of government in this State, directed to the Speaker of the House of Representatives and endorsed as provided in Section 119 [art. 8.37] and the other of said returns shall be deposited in the office of the county clerk of said county. Said transmitted returns directed to the Secretary of State shall be kept by him with the package and seal thereon to remain unbroken until the organization of the next Legislature, when he shall, on the first day thereof, deliver them to the Speaker of the House of Representatives. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 122.

Art. 8.41. Returns for legislators

When an election shall have been held for State Representatives in any district composed of more counties than one, the county judge to whom the returns in each county are made, and who is not authorized to give certificates of election to such State Representatives shall make out and send complete returns of such election for State Representatives in his county immediately after examining and recording the same, to the county judge of the county who may by law be authorized to give certificates of election to such members for such district. Said returns shall be sealed in an envelope, and the name of the officer forwarding them shall be written across the seal, and the envelope shall be endorsed, "Election Returns," and directed to the county judge of the proper county and transmitted by mail or other safe and expeditious conveyance. Provided, however, that in the case of representative district composed of only one county the returns thereof shall be made in accordance with Article 195, Revised Civil Statutes, 1925.

In a general election for State Senators in any district composed of more counties than one, the county judges shall, within fifteen (15) days after the date of the election, forward to the Secretary of State a certified return, giving the votes cast for each candidate for State Senator, in each county, and the Secretary of State shall issue a certificate of election to the person receiving the highest number of votes in the senatorial district.

If the county judge shall be delinquent in forwarding the returns as provided for in this Section, the Secretary of State shall proceed as directed by, and under the terms of Section 112 [art. 8.30]. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 123.

Art. 8.42. Certificate of legislator

In districts composed of more than one county, the county judge to whom the returns are forwarded in accordance with the terms of Arti-

cle 195, Revised Civil Statutes of Texas, 1925, or in case of vacancy in that office, or inability or failure to act on the part of such officer, then the county clerk of such county shall, not later than the tenth day after the election, open and count said returns in the presence of at least two (2) qualified voters of said district, and, after recording the same, shall give a certificate of election under the seal of said court to the person or persons receiving the highest number of votes for Representative in that district. Said certificate shall state the number of votes received by the person to whom the same is given; and the officer giving such certificate shall immediately forward a duplicate of the same to the Secretary of State; such duplicate certificate shall be mailed to the Secretary of State before the fifteenth day following the election.

The returns for a State Senator shall be canvassed as provided for in Section 123 [art. 8.41] and the Secretary of State shall issue a certificate of election as provided for in that Section. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 124.

Art. 8.43. County Judge to certify to Secretary of State

On or immediately after January 1, next following a general election, each county judge shall make out and certify to the Secretary of State a tabular statement showing who were elected, and to what office and the date of qualification, and giving the number of the precinct officers; together with the One Dollar (\$1) statutory fees, for issuance of each commission. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 125.

Art. 8.44 Special election to Legislature and Congress

Whenever there shall be held a special election in any representative or senatorial district in this State for the election of any member of the Legislature, during the session of any Legislature, or within a period of thirty (30) days prior to the convening of any session of the Legislature, it shall be the duty of the county commissioners of each county in such district to meet within two (2) days after such election is held, and canvass the returns thereof, and to immediately certify such returns to the proper returning county judge, and such county judge shall immediately thereafter open and count such returns in the same manner as is now provided in such Chapter 8; such judge shall immediately issue a certificate as is now provided by law and immediately forward same to the Secretary of State. This same procedure shall be followed whenever a vacancy occurs in Congress in any congressional district of this State if Congress is in session or is to convene within thirty (30) days from the date of the vacancy. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 126.

Art. 8.45. Commission to officers

The Governor shall commission all officers except Governor, members of Congress, electors for President and Vice-President, of the United States, members of the Legislature and municipal officers. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 127.

Art. 8.46. Death of Governor-elect or death or incapacity of Governor-elect and Lieutenant Governor-elect

Pursuant to the provisions as set forth in House Joint Resolution No. 7 which was approved and passed by the people of the State of Texas on November 2, 1948, and thereby becoming a part of the Constitution of the State of Texas, the successor to the office of Governor shall be as follows:

If, at the time the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, the person receiving the highest number of votes for the office of Governor, as declared by the Speaker, has died, then the person having the highest number of votes for the office of Lieutenant Governor shall act as Governor until after the next general election.

It is further provided that in the event that both the Governor-elect and the Lieutenant Governor-elect die or have become permanently incapacitated to take their oaths of office at the time when the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, and the Legislature finds that neither the Governor-elect nor the Lieutenant Governor-elect are able to take the oath of office and fulfill the duties thereof, then the Speaker of the House of Representatives and the President pro tem of the Senate will call a joint session of the House of Representatives and Senate for the purpose of electing a Governor and Lieutenant Governor.

The person receiving the highest number of votes cast by the Members of the Legislature for the office of Governor shall become the Governor and hold that office for the constitutional term of two (2) years. The person receiving the highest number of votes for the office of Lieutenant Governor cast by the Members of the Legislature, shall become Lieutenant Governor and hold that office for the constitutional term of two (2) years. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 128.

CHAPTER NINE

CONTESTING ELECTIONS

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Article 9.01. District court, jurisdiction and venue

The district court shall have original and exclusive jurisdiction of all contests of elections, general or special, for all school, municipal, precinct, county, district, state offices, or federal offices, except elections for the offices of Governor, Lieutenant Governor, Comptroller of Public Accounts, Treasurer, Commissioner of the General Land Office, Attorney General, and Members of the Legislature.

The venue of suits or contests between candidates for any office to be filled by the choice of voters of the entire state shall be in Travis County. The venue of suits or contests between candidates for any justice of any Court of Civil Appeals shall be in the county where said Court of Civil Appeals has its sittings.

The venue in all other election contests between candidates shall be in the county where the candidate receiving the certificate of election resides. If there is but one district court in the county in which venue is placed by this law and the judge of said court is disqualified to hear any contest, said judge shall be replaced for purposes of said contest in the manner provided by law for civil suits.

Nothing herein shall be construed to prohibit the district court in the county where any such contest may be filed from changing the venue to some adjacent county, upon showing of adequate cause. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 129.

Art. 9.02. Contest or prosecution by Attorney General

(1) In any special, general, or primary election in this State for any office, national, state, district, county, precinct, school, or municipal, or any election on any proposition, the Attorney General of Texas, in the case of elections involving two (2) or more counties, and the district and county attorneys, in the case of elections involving less than two (2) counties, may on their own motion, and shall when allegations of election frauds are presented to them by written affidavit of two (2) or more reputable citizens, investigate the conduct of such election and the making, canvassing, and reporting of returns. To make effective the power of such officers to investigate, the Attorney General, in elections involving two (2) or more counties, and the district and county attorneys in all other elections, are hereby authorized to impound all of the election records in the hands of any county clerk, district clerk, or any other election official by applying for and obtaining an order of a district court placing such records in the custody of the court to be examined by such officers in the presence of the district judge or a grand jury. All of such records, except the stub box, shall be subject to inspection and examination by the attorneys for the State in the cases hereby placed within their respective jurisdictions. The stub box containing identification of the individual voters shall not be opened or inspected by anyone except as otherwise provided in this Act with reference to election contests and in a grand jury room when alleged violations involve the contents of said box.

The application for impoundment and inspection of records shall be filed with the district court of a county in which the election was held, or an adjoining county, or Travis County in the case of state-wide elections, and the judge of said court shall immediately issue an order impounding such records in a vault or other secure place under such terms and conditions as will keep the records under his custody and control during the entire examination and inspection proceeding and for such additional time as he may direct. The ex parte proceeding herein provided for inspection in the presence of the judge shall be conducted in the usual manner as a court of inquiry, and the court shall issue such processes for witnesses and records relevant to the conduct of such election as may be requested by the appropriate attorney for the State, and disregard of subpoenas or other processes or refusal to testify at such hearing shall be punished by the court as in civil cases.

(2) The summary court proceeding and venue set out in subsection (1) above may be followed in the investigation and development of evidence relating to all other alleged violations of the Texas election laws. The Attorney General of Texas is hereby authorized to appear before a grand jury and prosecute any violation of the election laws of this State by any candidate, election official, or any other person, in state-wide elections, or elections involving two (2) or more counties. He may institute and maintain such prosecution alone or in conjunction with the

county or district attorney of the county where such prosecution is instituted. He may call upon and direct county and district attorneys to handle the investigations and prosecutions provided for above or to assist him in such procedures. This Section is intended to be cumulative and in addition to all other prosecutions authorized by other Sections hereof and other statutes. Concurrent venue for indictments and prosecutions under this Section shall be in the county where the election law violation occurred, or an adjoining county, or in Travis County if the violation involves or relates to a state-wide election for any State or national office or any proposition submitted to the people.

(3) Any subpoena or subpoena duces tecum issued by the clerk of any district court for any hearing, election contest, or election law violation shall be effective if served anywhere within this State, provided, however, no witness shall be punished for failure to comply with such subpoena or subpoena duces tecum unless the fees provided by law are tendered him as required by statute or court rule. When called upon by the Attorney General, the Department of Public Safety and Texas Rangers shall serve any subpoenas and assist in any investigations which may be necessary.

(4) The expense of any investigation on the part of the Attorney General of an election law violation shall be paid by the State of Texas. There is hereby appropriated for the biennium of 1951-52 the sum of Five Thousand Dollars (\$5,000) out of funds not otherwise appropriated from which such expenses may be paid. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 130.

Art. 9.03. Notice of contest

Any person intending to contest the election of any one holding a certificate of election for any office mentioned in this law, shall, within thirty (30) days after the return day of election, give him a notice thereof in writing and deliver to him, his agent or attorney, a written statement of the ground on which such contestant relies to sustain such contest. By the "return day" is meant the day on which the votes cast in said election are counted and the official result thereof declared. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 131.

Art. 9.04. Reply to notice of contest

The person holding such certificate shall, within ten (10) days after receiving such notice and statement, deliver, or cause to be delivered, to said contestant, his agent or attorney, a reply thereto in writing. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 132.

Art. 9.05. Service of notice

The notice, statement and reply required by the two preceding articles may and shall be served by any person competent to testify, and shall be served by delivering the same to the party for whom they are intended in person, if he can be found in the county, if not found, then upon the agent or attorney of such person, or by leaving the same with some person over the age of sixteen (16) years at the usual place of abode or business of such person. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 133.

Art. 9.06. Where to file papers

If the contest be for the validity of an election for any State office, except the offices provided for in Section 155 [art. 9.27], or for any district office, except Members of the Legislature, or for any county office, a copy of the notice and statement of the contestant and of the reply thereto of

the contestee served on the parties shall be filed with the clerk of the court having jurisdiction of the case. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 134.

Art. 9.07. Cause to have precedence

When the notice, statement and reply have been filed with the clerk of the court, he shall docket the same as in other causes, and the said contest shall have precedence over all other causes. If the office contested for be that of district clerk, then a clerk pro tem shall be appointed as is provided by law in suits where the clerk is a party to the suit. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 135.

Art. 9.08. Evidence and procedure

In trials of all contests of election, the evidence shall be confined to the issues made by the statement and reply thereto, which statement and reply may be amended as in civil cases. As to the admission and exclusion of evidence, the trial shall be conducted under the rules governing proceedings in civil causes. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 136.

Art. 9.09. To execute bond

Whenever the validity of any election for an officer other than for Members of the Legislature is contested, the contestee shall, within twenty (20) days after the service of said notice and statement of such contest upon him, file with the clerk of the court in which such contest is pending a bond with two (2) or more good and sufficient sureties, payable to the contestant, to be approved by said clerk, in an amount to be fixed by said clerk, and not less than double the probable amount of salary or fees or both, as the case may be, to be realized from the office being contested for a period of two (2) years; conditioned that, in the event the decision of the contest shall be against such contestee and in favor of the contestant, such contestee will pay over to such contestant whatever sum may be adjudged against him by a court having jurisdiction of the subject matter of such bond. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 137.

Art. 9.10. Failure to file bond

If the contestee fails to file the bond as required in the preceding Section, and within the time therein prescribed, said clerk shall notify the contestant immediately of such failure; and such contestant shall have the right within ten (10) days after such notice, to file a like bond payable to the contestee, conditioned that, in the event the decision of the contest is against him and in favor of the contestee, he will pay over to such contestee whatever sum may be adjudged against him, the said contestant, by a court having jurisdiction of the subject matter of such bond. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 138.

Art. 9.11. Execution of bond by contestant certified

Immediately upon the filing of said bond by the contestant, the clerk shall certify in writing, and under his official seal, to the Governor, that the contestee failed to give the required bond, and that the contestant has given such bond in accordance with law. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 139.

Art. 9.12. To commission contestant

Upon receiving such certificate from the clerk, the Governor shall issue a commission to the said contestant for the office in controversy pend-

ing such contest; and thereupon the contestant, upon qualifying in said office as required by law, shall exercise all the rights and powers and perform all the duties of said office for the full term thereof unless it shall otherwise be determined and ordered by the court upon the trial of such contest. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 140.

Art. 9.13. Failure of contestant to execute bond

The Governor shall issue the commission to the contestee at the time provided by law as in other cases, unless he has been notified of the failure of such contestee to file the bond required by Section 137 [art. 9.09], in which event the Governor shall withhold the issuance of such commission until after the time allowed the contestant to file such bond has elapsed; but, if the said contestant shall also fail to file bond as provided in Section 138, and within the time therein required, the clerk shall certify all the facts in the case, under his official seal to the Governor, who shall thereupon issue the commission to the contestee. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 141.

Art. 9.14. Fraudulent vote not counted

If any vote or votes are found upon the trial of any contested election to be illegal or fraudulent, the trial court shall subtract such vote or votes from the poll of the candidate who received the same, and after a full and fair investigation of the evidence shall decide to which of the contesting parties the office belongs. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 142.

Art. 9.15. Election declared void

If it appears on the trial of any contest provided for in Section 134 [art. 9.06] that it is impossible to ascertain the true result of the election as to the office about which the contest is made, either from the returns of the election or from any evidence within reach or from the returns considered in connection with other evidence, or should it appear from the evidence that such a number of legal voters were, by the officers or managers of the election, denied the privilege of voting as, had they been allowed to vote, would have materially changed the result, the court shall adjudge such election void, and direct the proper officers to order another election to fill said office; which election shall be ordered and held and returns thereof made in all respects as required by the general election laws of the State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 143.

Art. 9.16. Bonds subject to suit

The bonds required to be filed by the contestant and contestee under the provisions of this chapter shall remain on file in the office of the clerk where filed, and may be sued upon as other bonds. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 144.

Art. 9.17. Appeal available

Either the contestant or contestee may appeal from the judgment of the district court to the Court of Civil Appeals, under the same rules and regulations as are provided for appeals in civil cases; and such cases shall have precedence in the Court of Civil Appeals over all other cases. In cases of appeal as provided for in this Section, the clerk shall, without delay, make up the transcript and forward the same to the clerk of the Court of Civil Appeals for that district. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 145.

Art. 9.18. Taxing costs

The costs in all contested election cases shall be taxed according to the laws governing costs in civil cases, except when otherwise specially provided, and bond for cost may be required as in civil suits. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 146.

Art. 9.19. Measure of damages

Where the contest shall have been decided against one of the parties and the other party shall have filed a bond and performed the duties of the office under the provisions of this chapter, the bond so filed shall inure to the benefit of the successful party in any suit thereon in a court having jurisdiction of the amount in controversy; and the measure of damages recoverable, besides cost of suit, shall be the salary, fees, and emoluments of office of which he has been deprived, less such reasonable expenses as the party holding the office shall have incurred in executing the duties of the office; provided that he shall have acted in good faith in receiving the certificate of election or commission for the office. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 147.

Art. 9.20. For Legislature

If the contest be for the validity of an election for members of the Legislature, a copy of the notice, the statement, and the reply served upon the parties as required by this Chapter, shall, within twenty days after the service thereof, be filed with the district returning officer to whom the returns of such election were made, who shall envelope the same, together with a certified copy of the poll book or register of the votes of each precinct and county returned to him in said election and shall seal the said envelope and write his name across the seals, and address the package to the President of the Senate or Speaker of the House of Representatives, as the case may be, to the care of the Secretary of State, and shall forward the same by mail or other safe conveyance to the seat of government, so as to reach there if possible, before the convening of the Legislature. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 148.

Art. 9.21. Depositions taken

At any time after filing said papers with said returning officer, either party to said contest may proceed, at his own expense, to take such written testimony as he may deem proper, having first served the opposite party, his agent or attorney, with a copy of the interrogatories he intends to propound to each witness, and the name of the officer before whom the same will be answered as well as the time and place of taking such testimony. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 149.

Art. 9.22. Who may take such depositions

Any officer authorized by the law of this State to administer oaths, upon being satisfied as to any costs, including his own fees, that may accrue in the taking of such testimony, shall proceed upon the application of the party desiring it, to summon the witness or witnesses named in the interrogatories and take his or their answers in writing and under oath to such interrogatories and cross interrogatories as may be propounded in writing. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 150.

Art. 9.23. How depositions may be returned

The answers of each witness shall be reduced to writing and signed by such witness, and sworn to by such witness before the officer taking the same, and shall be certified to by such officer and sealed in an en-

velope; and the name of said officer shall be written by him across the seals; and he shall forward the same without delay by mail or other safe conveyance to the President of the Senate or Speaker of the House of Representatives, as the case may be, to the care of the Secretary of State, at the seat of government. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 151.

Art. 9.24. Referred to committee

The notice and statement of contest and the other papers pertaining thereto shall immediately after the organization of the Legislature be opened by the President of the Senate or by the Speaker of the House of Representatives, as the case may be; and the same shall be referred to the committee on privileges and elections of the House in which the contest is pending, which committee shall proceed without delay to fix a time for the hearing of said case, and, after due notice to the parties thereto shall investigate the issues between said parties, hearing all the legal evidence that may be presented to said committee, and shall as soon thereafter as practicable report their conclusions of law and fact in respect to said case to the House by which said committee was appointed, accompanied by all the papers in the cause, and the evidence taken therein, with such recommendations as may to them seem proper. Any one or more of the committee dissenting from the views of the majority may present a minority report. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 152.

Art. 9.25. Hearing by committee

The rules of evidence and the laws in force respecting the admissibility of evidence, the taking of depositions and the issuance and service of process in the district courts of this State shall be observed by said committee, so far as the same may be applicable. Said committee shall have the power to send for persons and papers, and the chairman of said committees shall have the power to issue all process necessary to secure the attendance of witnesses and the production of papers, ballot boxes and other documents before said committee and such process shall be executed by the sergeant-at-arms of the House in which the contest is pending, or by such other person as the presiding officer of said House may designate. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 153.

Art. 9.26. Procedure by House

The House in which the contest is pending shall, as soon as practicable after the report of the committee has been received, fix a day for the trial of the contest, and shall proceed to determine whether the contestant or contestee, or either of them, is entitled to the contestant's seat; provided, the said House may hold the election void after full consideration of all the evidence and for the reasons prescribed in Section 143 [art. 9.15] and in such case the Governor shall at once be notified of the vacancy. Such fees shall be paid to the witnesses and the officers serving the process as shall be prescribed by the rules of the House in which said contest is pending, and no mileage or per diem shall be paid to either of the parties to said contest until said case is determined, and in no case shall any mileage or per diem be paid to any party against whom any contest is decided. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 154.

Art. 9.27. Contest for State office

If the contest be for the validity of any election for Governor, Lieutenant Governor, Comptroller, State Treasurer, Land Commissioner or Attorney General, the same shall be tried and determined by both Houses of the Legislature in joint session, and the provisions of this chapter

governing in case of a contest for the validity of an election for members of the Legislature shall apply to and govern in a contest for the office above named, as far as applicable. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 155.

Art. 9.28. United States Senator

If the nomination of any candidates for United States Senator be contested, the same shall be conducted under the provisions of the law regulating contests for Governor. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 156.

Art. 9.29. For Presidential electors

Any person intending to contest the election of any or all of the persons duly declared elected as electors of President and Vice-president, shall within ten (10) days from the said fourth Monday in November, file with the Secretary of State a written statement of the ground on which such contestant relies to sustain such contest, and shall within such time, notify the contestee thereof in writing, and deliver to him, his agent or attorney, a copy of said statement. The contestee shall, within eight (8) days after receiving such notice, file with the Secretary of State his reply thereto in writing. The contest shall, as soon thereafter as possible, be tried and determined by the State Board of Canvassers, consisting of the Governor, Attorney General and Secretary of State, or any two (2) of them; and their decision shall be rendered at least two (2) days before the time fixed by law for the meetings of the electors. Such decision, in which two (2) at least of such board shall join, shall be final, and certificates of election, in accordance therewith shall at once be issued by the Secretary of State to the proper parties. Where not otherwise herein provided, the provisions of law relating to contests for the validity of an election for members of the Legislature shall apply to such contests for presidential electors. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 157.

Art. 9.30. Other contested elections

If the contest be for the validity of an election held for any other purpose than the election of an officer or officers in any county or part of a county or precinct of a county, or in any incorporated city, town, or village, any resident of such county, precinct, city, town, or village, or any number of such residents, may contest such election in the district court of such county in the same manner and under the same rules, as far as applicable, as are prescribed in this chapter for contesting the validity of an election for a county office. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 158.

Art. 9.31. Parties defendant

In any case provided for in the preceding Section, the county attorney of the county, or if there is no county attorney, the district attorney of the district, or the mayor of the city, town or village, or the officer who declared the official result of said election, or one of them, as the case may be, shall be made the contestee, and shall be served with notice and statement, and shall file his reply thereto as in the case of a contest for office; but in no case shall the costs of such contest be adjudged against such contestee, or against the county, city, town, or village which they may represent, nor shall such contestee be required to give bond upon an appeal. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 159.

Art. 9.32. Constitutional amendment

Within sixty (60) days from the date of any election upon any proposed amendment to the Constitution, and not thereafter, any citizen of this State who is a qualified voter, shall have the right to contest said election by filing his petition in a district court of Travis County, fully stating his grounds for contest, naming the Secretary of State as contestee; and thereupon the district judge, in whose court the contest is filed, shall make an order for the issuance, and the clerk of said court or the judge thereof, shall issue a writ of injunction enjoining the Secretary of State from tabulating, estimating or canvassing the returns of said election and from ascertaining or declaring the result of said election until said contest is finally determined. Citation shall be issued and served upon the Secretary of State as in other Civil cases. At the time of filing such petition, contestant shall cause to be published in a daily newspaper printed in Texas, for at least ten (10) days before appearance day, a brief notice to all parties interested that such suit has been filed. The Secretary of State shall within twenty (20) days from service of citation file a formal answer but shall not be liable for any costs. Any qualified citizen or citizens adversely interested in such contest may appear by counsel of their own choosing upon either side of the contest, but opponents of the contest shall have the right to direct and control the pleadings of the Secretary of State and the conduct of the contest upon the part of the contestees; and contestants shall jointly and not severally plead in the cases. The said court shall cause the party contesting the result of said election and the parties adversely interested to form issues and shall as near as may be conform the hearing and determination of such contest to the proceedings usual in courts in contested election cases. The court shall permit contestants to amend their petition, include therein allegations charging fraud, irregularities or mistakes, upon such terms as to the court may seem just, and likewise the contestees shall have the right both to contest the charges made by the contestant and to make counter charges, but the court shall bring the parties to issue with all possible dispatch.

Said contestant shall be required to give a good and sufficient bond to be approved by the clerk of the court wherein said contest is filed, conditioned that the said contestant will pay, in the event he is defeated in said contest, all the costs that may be incurred in the trial of said contest. He shall not be permitted to file any such contest and give in lieu of the bond herein provided for any affidavit of inability to pay the costs as provided for by law. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 160.

Art. 9.33. Power of court

The said court shall have the power to appoint commissioners to sit at such places as the court may designate for the purpose of hearing testimony, reducing same to writing and reporting same to said court, said court shall also have the power to issue all orders that may be necessary or proper to compel the production before said court or any commissioner appointed by said court of all ballot boxes and instrumentalities used in connection with said election that may be necessary or proper to determine the issues raised by such contest, and to send by proper process to any county in the State, for the officers of the election or the custodians of ballot boxes for the purpose of aiding in, ascertaining and determining any matter or thing necessary or proper in connection with the trial of said contest. The said court may proceed to the trial of said issue raised by said contest after having given the contestants and the contestees full and fair opportunity to produce before said court

the evidence upon such issues. The court may adjourn the said hearing from time to time and may, before the final determination of said cause, make such orders and decrees as to the court may seem just and proper, requiring any election officers to make such certificate of the result of such election as in the judgment of the court such officers should have made in making the returns of such election. Upon the trial of said cause, the court shall have full power and authority to hear and determine all matters and things necessary or proper to the determination of the question whether a majority of the legal votes cast in said election, either in favor of or against said proposed amendment, including the manner of holding the election, any frauds or irregularities in the conduct thereof, or in the making of the returns thereof illegal votes cast at said election or legal votes prevented from being cast, false calculations, certificates or returns, and to exercise all powers of the court, in order to fully inquire into and ascertain the true and correct result of such election, free from any fraud, irregularity or mistake. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 161.

Art. 9.34. To compel returns

The said court shall have full authority when the result of such election in any voting precinct box shall have been ascertained and determined, to order and compel the proper officers thereof to make true and correct returns of such election in such voting box as finally determined by said court, to the proper officers of such county and when the result in any county shall have been ascertained and determined by said court, to order and compel the proper returning officers of such county to make true and correct returns of the result of said election in said county as to said amendment as ascertained by said court to the Secretary of State, and to order the Secretary of State to make his returns, tabulations, canvassings, countings and certificates in accordance with the result of such election as finally ascertained and determined by the court. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 162.

Art. 9.35. Decree

The said contest shall have precedence in said court over all causes pending therein. Either party may appeal as in other civil cases and the same shall have precedence over all other causes pending in the appellate courts to which the appeal or writ of error is taken, except such cases as may be entitled to precedence over said cause by virtue of some provision of the Constitution of this State. Upon final judgment in said appellate court, it shall enter a decree ordering and directing the Secretary of State to declare the true result of said election as judicially determined and ascertained by said court, and the Secretary of State shall make his tabulations, canvassings and certificates of the results of such election in accordance with the final judgment of said court, and said amendment shall be adopted or rejected in accordance with the final result of said election as finally determined by the judgment of said court. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 163.

Art. 9.36. Result final

The result of said contest shall finally settle all questions relating to the validity of said election, and it shall not be permissible to again call the legality of said election in question in any other suit or proceeding. If no contest of said election is filed and prosecuted in the manner and within the time herein provided for, it shall be conclusively presumed that said election as held and the result thereof as declared are in all respects valid and binding upon all courts, provided, that pending such contest

the enforcement of all laws in relation to the subject matter of such contest shall not be suspended, but shall remain in full force and effect. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 164.

Art. 9.37. To examine the ballots

At any time when the grand jury is making an investigation of any criminal violation of the election laws, and finds probable cause, a request may be made to a district judge of that county for an order directed to the County Clerk to permit the grand jury to examine the ballot box and ballots therein in so far as may be necessary to determine the issue at stake. Such order may be issued by the district judge in his sound discretion. In that case, the grand jury shall make such examination in secret before a quorum of the grand jury and only then; when such examination is complete the boxes shall be relocked and returned to the custody of the County Clerk. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 165.

Art. 9.38. Best Evidence

In case the ballots or ballot have been illegally destroyed before the time allowed by the law for their destruction, a person in a court of law may testify as to how he voted in any primary or election in this State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 166.

CHAPTER TEN

CONSTITUTIONAL AMENDMENTS

Art.

- 10.01. Constitutional Amendments.
- 10.02. Duties of Officers.
- 10.03. Convention to ratify proposed Amendments to Federal Constitution; election of delegates.

Sec.

- 1. Election of delegates.
- 2. Nominating Conventions.
- 3. Nomination and qualifications of delegates and alternates.
- 4. Journal of Nominating Conventions.
- 5. Certification of nominees by Secretary of State.
- 6. General Election Laws applicable.
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- 8. Making and canvassing returns.
- 9. Certificates of election.
- 10. Time of convening of ratification convention.
- 11. Quorum; Alternates.
- 12. Journal of ratification convention.
- 13. Certification of ratification.
- 14. Election expenses; duties of public officials.
- 15. Appointment of county chairman and vice-chairman.
- 16. Expenses of delegates.
- 17. Conflicting Statute or Resolution of Congress.

Article 10.01. Constitutional Amendments

The election where Constitutional Amendments are to be voted on shall be held by the general election officials named by the Commission-

ers Court and if supervisors are desired they shall be named as provided for by the law. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 167.

Art. 10.02. Duties of Officers

In holding elections on Constitutional Amendments the judges and clerks shall have the same qualifications, perform the same duties, and receive the same compensation as in general elections. The supervisors shall perform the same duties, be paid in the same manner, take the same oath, and have the same obligations as for general elections. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 168.

Art. 10.03. Convention to ratify proposed Amendments to Federal Constitution; election of delegates

Sec. 1. Election of delegates. Whenever the Congress of the United States shall submit to the respective States a proposed Amendment to the Constitution of the United States and shall propose that it be ratified by conventions in the several States, an election shall be held on the fourth (4th) Saturday in August of the year in which any such amendment is submitted by the Congress of the United States, at which election thirty-one (31) delegates and thirty-one (31) alternates each, such total number of delegates and such total number of alternates to be composed of one (1) delegate and one (1) alternate from each of the several thirty-one (31) Senatorial Districts of the State, shall be elected, provided that the same is submitted to this State within the time necessary to comply with the provisions hereof, otherwise at the succeeding General Election.

Sec. 2. Nominating Conventions. On the sixtieth (60th) day preceding the day of the election those persons, groups and organizations in favor of the ratification of the Amendment, and those persons, groups and organizations against the ratification of the Amendment shall hold separate Conventions in the City of Austin. Any qualified voter of this State shall be entitled to participate and vote in either of said Conventions, but not in both. Ten (10) days prior to the meeting of such Conventions it shall be the duty of the Governor of this State to designate a qualified voter of this State known by him personally to be in favor of the ratification of such Amendment, and it shall be the duty of the person so appointed to select and designate the place in the City of Austin at which the Convention of those persons, groups and organizations favoring the ratification of the Amendment shall convene and hold its meeting and the person so appointed shall preside as president pro tem until the permanent officers of the Convention are elected. The Governor shall likewise appoint a qualified voter of this State, known to him to oppose the ratification of the proposed Amendment, and the person so appointed shall select and designate the place in the City of Austin where the Convention of those persons, groups and organizations opposing the ratification of the proposed Amendment shall convene and hold their meeting, and the person so appointed shall preside and act as president pro tem until the permanent officers of the Convention of those persons opposing the ratification of the Amendment are elected.

Sec. 3. Nomination and qualifications of delegates and alternates. After each such Convention has been organized and its permanent officers elected the same shall proceed to nominate thirty-one (31) delegates and thirty-one (31) alternates each, such total number of delegates and such total number of alternates to be composed of one (1) delegate and one (1) alternate from each of the several thirty-one (31) Senatorial Districts of the State. Candidates for the offices of delegates and alternates to the Convention to pass on the proposed Amendment shall be citizens and residents of this State and duly qualified voters in the Senatorial

District from which they offer their candidacy for election, and their names shall be certified by the Chairman and Secretary of the respective Conventions to the Secretary of State within five (5) days after the day of holding the respective Convention. No person shall be eligible as a delegate or alternate of the Convention of those persons opposing the ratification of the Amendment unless he shall make affidavit before some officer authorized to administer oaths that he is opposed to the ratification of the Amendment, and will so cast his vote in Convention, and no person shall be eligible as a delegate or alternate of the Convention favoring the ratification of the proposed Amendment unless he shall make affidavit in writing before some officer authorized to administer oaths that he favors the ratification of the Amendment, and will so cast his vote in Convention, and each such delegate and alternate shall file his affidavit with the Chairman of the Convention of which he is the nominee, or with the Secretary of State, which affidavit shall be filed within fifteen (15) days after the date of the filing of the list of delegates and alternates with the Secretary of State by the respective Chairman of the Conventions. No nominee of either Convention shall be either a State, District or County office holder. The Chairman of each Convention shall file the affidavit of the respective nominees of each Convention with the Secretary of State, together with the certified list of nominees for said Convention.

Sec. 4. Journal of Nominating Conventions. Each such Convention shall be required to keep a journal of its proceedings and set forth among the minutes thereof the respective names of each delegate and alternate nominated at such Convention, together with the number of votes received by each such nominee, together with all other proceedings that may be had in said Convention. It shall be the duty of the Chairman of each such Convention, upon the adjournment thereof, to deposit each such journal with the Secretary of State where the same shall remain as a permanent public record.

Sec. 5. Certification of nominees by Secretary of State. It shall be the duty of the Secretary of State to certify to the County Clerk of each county in this State the names of the persons selected as the nominees of each Convention and to show in his certificate those delegates and alternates in favor of the ratification of the Amendment and those delegates and alternates against the ratification of such Amendment.

Sec. 6. General Election Laws applicable. All laws pertaining to conducting and holding General Elections and the qualifications of voters shall apply to the holding of the election ordered by the Governor except in so far as they are inconsistent with the provisions of this Act.

Sec. 7. Form of ballot. The election shall be by ballot, separate from any ballot to be used at the same election, and shall be prepared as follows: It shall first state the substance of the proposed Amendment. This shall be followed by appropriate instructions to the voter. It shall then contain perpendicular columns of equal width headed respectively, in plain type "FOR ratification of the above Amendment," and "AGAINST ratification of the above Amendment." In the column headed "FOR ratification of the above Amendment" shall be placed the names of the nominees or delegates and alternates nominated as in favor of the ratification; in the column headed "AGAINST ratification of the above Amendment" shall be placed the names of the nominees or delegates and alternates nominated as opposed to the ratification. The voter shall be entitled to vote for any number of candidates whose names appear on such ballot, not to exceed thirty-one (31) delegates and thirty-one (31) alternates. Such voter shall indicate his choice by drawing a line through

or striking out all the names of such candidates other than the ones for whom he desires to cast his vote.

The ballot shall be substantially in the following form:

PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

The Congress has proposed an amendment to the Constitution of the United States which reads as follows:

(Here insert the proposed amendment)

INSTRUCTIONS TO THE VOTER

FOR the ratification of the above amendment. (Insert names of delegates and then alternates in alphabetical order favoring the ratification of the amendment.)

AGAINST the ratification of the above amendment. (Insert names of delegates and then alternates in alphabetical order against the ratification of the amendment.)

Sec. 7a. Form of ballot in case of proposed repealing amendment. Provided, however, that if such proposed amendment, is one which repeals another amendment to the Constitution of the United States then it shall not be necessary to state the substance of the proposed amendment; and in lieu of the words "FOR ratification of the above amendment," and "AGAINST ratification of the above amendment" at the top of the two perpendicular columns, there shall be inserted the words "FOR repeal of the ——— amendment," and the words "AGAINST repeal of the ——— amendment," respectively; the number of such amendment which it is proposed to repeal to be inserted in the blank space above, as e. g. "FOR repeal of the Eighteenth (18th) Amendment," and "AGAINST repeal of the Eighteenth (18th) Amendment." In such instances the ballot shall be substantially in the following form:

INSTRUCTIONS TO THE VOTER

FOR the repeal of the ——— amendment. (Inserting in the blank the number of the amendment proposed to be repealed.) (Insert names of delegates and then alternates in alphabetical order favoring the repeal of the amendment.)

AGAINST the repeal of the ——— amendment. (Inserting in blank the number of the amendment proposed to be repealed.) (Insert names of delegates and then alternates in alphabetical order against the repeal of the amendment.)

Sec. 7b. Voting and marking ballots. The voter shall be entitled to vote for not more than thirty-one (31) delegates (candidates) and thirty-one (31) alternates (candidates) and shall indicate his choice by drawing a line through or marking out all the names of such delegates (candidates) and alternates (candidates) other than the ones for whom he desires to cast his vote.

Sec. 8. Making and canvassing returns. Returns shall be made of the election in the same manner and by the same officers as is provided by law for the making of returns of elections for Railroad Commissioners. On the thirtieth (30th) day following the day of the election and not before, the Secretary of State, in the presence of the Governor and the Attorney General, or either of them, shall open and canvass the returns of the election.

Sec. 9. Certificates of election. The thirty-one (31) delegates and the thirty-one (31) alternates receiving the highest number of votes shall be declared elected and the Governor shall issue to each of those persons a certificate of election which shall be signed by the Governor and attested by the Secretary of State.

Sec. 10. Time of convening of ratification convention. On the ninetyeth (90th) day following the day of the election the thirty-one (31) delegates and thirty-one (31) alternates elected at the said election and commissioned by the Governor shall convene in the City of Austin at 10 o'clock A.M., and shall thereupon constitute a convention to pass upon the question of whether or not the proposed amendment to the Constitution shall be ratified.

Sec. 11. Quorum: Alternates. A majority of the delegates so elected shall constitute a quorum at such convention for the purpose of transacting business. A majority of the quorum present and voting may act for the convention. In the event any delegate to such conventions, after he has been duly elected, shall die, resign, become incapacitated or fail to attend such convention, then and in any such event the alternate of such delegate shall act in the stead of said delegate with the full and complete powers of said delegate.

Sec. 12. Journal of ratification convention. The convention shall keep a journal of its proceedings in which shall be recorded the vote of each delegate on the question of the ratification of the proposed Amendment, and upon final adjournment the journal reflecting the vote of the delegates, together with the minutes of the convention, shall be filed with the Secretary of State of the State of Texas where it shall remain on file as a public record.

Sec. 13. Certificate of ratification. If the convention shall agree to the ratification of the proposed Amendment, a certificate to that effect shall be executed by the President and Secretary of the Convention and transmitted to the Secretary of State of this State and to the Secretary of State of the United States. The Secretary of State shall in turn transmit such certificate under the great Seal of the Sovereign State of Texas to the Secretary of State of the United States.

Sec. 14. Election expenses; duties of public officials. The expenses necessary to conduct such election shall be paid for by the respective counties of this State in the same manner as is now provided by law with reference to any other general or special State-wide election and the duties of all public officials with reference to providing for such election shall be the same as is now prescribed by law with reference to other elections except as herein provided.

Sec. 15. Appointment of county chairman and vice-chairman. The permanent chairman of each Convention provided for in Section 2 hereof is hereby empowered to appoint a chairman and vice-chairman for each county. The chairman in each county (or the vice-chairman in the event of failure or inability of the chairman) is hereby empowered to appoint one assistant election judge and one clerk for each voting precinct for the purpose of assisting in holding the election provided for by this Act. Should a chairman or vice-chairman fail to make such appointments, then the presiding judge of each precinct is hereby empowered to appoint such assistants, in the manner now provided by statute, the appointees, however, shall be selected to equally represent both sides of the question; otherwise the said election, manner of conducting the same and the returns thereof, shall be in all things held as is now provided by statute for the holding of general elections. None of the expenses arising or accru-

ing because of the appointment of or the services rendered by the officials provided for in this Section shall be borne by the State or any county thereof; provided, however, any other usual, customary election expenses for officials to hold said election and for other election expenses shall be paid as is now provided by law for general elections.

Sec. 16. Expenses of delegates. The delegates elected to such Convention shall defray their own expenses incurred in connection therewith.

Sec. 17. Conflicting Statute or Resolution of Congress. If Congress should, at any time, either by Resolution or by Statute, prescribe the method and manner in which the Convention shall be constituted, and shall not except from the provisions of such Statute or Resolution such States as may have theretofore provided for constituting such conventions, the provisions of this Act shall be inoperative in so far as the same shall operate as to conflict with such Resolution or Act of Congress. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 169.

CHAPTER ELEVEN

PRESIDENTIAL ELECTORS

Art.

- 11.01. Time of election.
- 11.02. Effect of votes for candidates of political party.
- 11.03. Canvass of votes and returns.
- 11.04. Certification of names of candidates for President and Vice-President.
- 11.05. Electors to convene.
- 11.06. Pay of electors.

Article 11.01. Time of election

On the Tuesday after the first Monday in November, A. D. 1952, and on the Tuesday next after the first Monday in November, every four years thereafter, or at such other times as the Congress of the United States may direct, there shall be elected by the voters of the State as many electors for President and Vice-President of the United States as the State of Texas may at that time be entitled to elect, no one of whom shall be a person holding the office of Senator or Representative in Congress, or any office of trust or profit under the United States. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 170.

Art. 11.02. Effect of votes for candidates of political party

A vote for the candidates of any political party for both President and Vice-President of the United States shall be conclusively deemed to be a vote for candidates of the same party for Presidential electors, and shall be so counted and recorded for such electors as the State shall be empowered to elect. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 171.

Art. 11.03. Canvass of votes and returns

The canvass of the votes for candidates for President and Vice-President of the United States and the returns thereof shall be a canvass and return of the votes cast for the electors of the same party, respectively, and the certificate of such election made by the Governor shall be in accord with such return. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 172.

Art. 11.04. Certification of names of candidates for President and Vice-President

The names of the candidates for President and Vice-President, respectively, of a Political Party as defined in the Law, shall, at least 35 days prior to the election, be certified to the Secretary of State by the chairman and secretary of the State Committee of said Party. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 173.

Art. 11.05. Electors to convene

On or before the meeting of the electors, the Governor shall cause three (3) lists of names of such electors to be made out and delivered to them as required by Act of Congress. The electors so chosen shall convene in the Capitol at Austin on the first Monday after the second Wednesday in December next after their election and vote for President and Vice-President of the United States and make such return thereof as is or may be required by the laws of the United States. If any person so chosen elector shall, by death or disabling cause, fail to attend by the hour of two o'clock in the afternoon on the day fixed by law, and vote as required by law or if any such person shall be legally disqualified to serve as elector, a majority of the qualified electors present, after having convened, may appoint some other person to act as elector in place of any such absent or disqualified person, and shall immediately report their action to the Secretary of State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 174.

Art. 11.06. Pay of electors

Such electors shall receive the same pay for mileage in traveling to and from Austin and twice the pay daily while engaged there in the duties required of them by law, as that allowed by law to the Members of the Legislature. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 175.

CHAPTER TWELVE

UNITED STATES SENATORS

Art.

12.01. United States Senators.

12.02. Vacancy.

12.03. If two Senators.

Article 12.01. United States Senators

As to the nomination and election of United States Senators all the applicable laws of this code for the nomination and election of the Governor shall govern in the nomination and election of United States Senators. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 176.

Art. 12.02. Vacancy

When any vacancy occurs in the representation of this State in the United States Senate, the Governor of this State shall within ten (10) days issue writs of election to fill such vacancy, which election shall be held not less than sixty (60) days nor more than ninety (90) days after such vacancy occurs; provided that if the vacancy occurs within four (4) months of a general election the election to fill the vacancy shall be held on the general election day, and provided further if the Congress or Senate is in session at the time of such vacancy or should convene

before such election or before the result of the same can be officially ascertained under law, the Governor shall make temporary appointment of a suitable and qualified person to represent the State in the United States Senate, until the election and qualification of a Senator can be made. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 177.

Art. 12.03. If two Senators

When there are two (2) Senators to be elected from Texas to Congress, each candidate offering his name for election shall designate in his application for a position on the ticket whether in a general or special election or primary, whether he is a candidate for the short term or long term. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 178.

CHAPTER THIRTEEN

NOMINATIONS

1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER

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1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER

Article 13.01. Primary Election

The term "primary election," as used in this chapter, means an election held by the members of an organized political party for the purpose of nominating the candidates of such party to be voted for at a general or special election, or to nominate the county executive officers of a party. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 179.

Art. 13.02. Nominated at Primary

On primary election day in 1952 and every two (2) years thereafter, candidates for Governor and for all other State offices to be chosen by vote of the entire State, and candidates for Congress and all district offices to be chosen by the vote of any district comprising more than one (1) county, to be nominated by each organized political party that cast two hundred thousand (200,000) votes or more for governor at the last general election, shall, together with all candidates for offices to be filled by the voters of a county, or of a portion of a county, be nominated in primary elections by the qualified voters of such party. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 180.

Art. 13.03. Date of Primary

The fourth Saturday in July, 1952, and every two (2) years thereafter shall be general primary election day, and primary elections to nominate candidates for a general election shall be held on no other day, except when specially authorized. No person shall be declared the nominee of

any political party at any primary election for any office unless he has complied with every requirement of all laws applicable to primary and other elections, and has received a majority of all the votes cast at such primary elections for all candidates for such office. If at the general primary election for any political party, no candidate becomes the nominee for any office under this section, a second primary election shall be held by such political party, on the fourth Saturday in August succeeding such general primary election, and only the name of the two (2) candidates who received the highest number of votes for any office for which nomination was made at the general election shall be placed on the official ballot as candidates for such office at such second primary, except as herein stated, provided that in case no one received a majority in the first primary and if the second and third highest candidates in that race shall be tied these two (2) shall cast lots under the direction of the county chairman or state chairman as the case may be to see which of the two (2) shall have his name printed on the second primary ballots. The second primary election shall be conducted according to the law prescribed for conducting the general primary election, and the candidates receiving a majority of all votes cast for the office to which they aspire shall be declared the nominee for their respective offices. Nominations of candidates to be voted for at any special election shall be made at a primary election at such time as the party executive committee shall determine, but no such committee shall ever have the power to make such nominations, except where provided for by law. All precincts in the same county and all counties in the same district shall vote on the same day. Nominations of party candidates for offices to be filled in a city or town shall be made not less than thirty (30) days prior to the city or town election at which they are to be chosen, in such manner as the party executive committee for such city or town shall direct, and all laws prescribing the method for conducting county primary elections shall apply to them. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 181.

Art. 13.04. Where to vote

The places of holding primary elections of political parties in the various precincts of the State shall not be within one hundred (100) yards of the place at which such elections or conventions are held by a different political party. When the chairmen of the executive committees of the different parties cannot agree on the places where precinct primary elections to be held on the same day shall be held, such places in each precinct shall be designated by the county judge, who shall cause public notice thereof to be given at once in some newspaper in the county, or if there be none, by posting notices in some public place in the precinct. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 182.

Art. 13.05. Officers of Primary

All the precinct primary elections of a party shall be conducted by a presiding judge, to be appointed by a chairman of the county executive committee of the party, with the assistance and approval of at least a majority of the members of the county executive committee. Such presiding judge shall select an associate judge and a clerk to assist in conducting the election; additional clerks may be appointed under such rules as may be made by the county executive committee. Two (2) supervisors may be chosen by any five (5) or one-fifth ($\frac{1}{5}$) of the candidates, which ever is the lesser number, whose names appear upon the primary ballot, who, with the judges and clerks, shall take the oath required of such officers in general elections; such supervisors shall be paid by

those requesting the supervisors and they shall perform such duties as provided in the law for general elections. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 183.

Art. 13.06. Judges of primary

Judges of primary elections have the authority, and it shall be their duty, to administer oaths, to preserve order at the election, to appoint special officers to enforce the observance of order and to make arrests, as judges of general elections are authorized and required to do. Such judges and officers shall compel the observance of the law that prohibits loitering or electioneering within one hundred (100) feet of the entrance of the polling place, and shall arrest, or cause to be arrested, any one engaged in the work of conveying voters to the polls in carriages or other mode of conveyance, except as permitted by the law. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 184.

Art. 13.07. Nominations by majority

In all nominations by political parties holding primary elections as provided in Chapter 13 of this Code, and amendments thereto, the candidates for County and precinct offices shall be nominated by a majority vote of the electors voting in such primary; provided that if no candidate received a majority of the votes cast for the candidates for the office for which he is a candidate, the County Executive Committee, after canvassing the results of such primary as provided by law shall cause the names of the two (2) candidates receiving the highest number of votes to be placed on the ballot to be voted upon at the second primary at the time and in the manner provided by law for such second primary. If all candidates for County and precinct offices are nominated within the County at the first primary election, it shall still be the duty of the County Executive Committee to hold a second primary election for the purpose of nominating District and State candidates. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 185.

Art. 13.08. Expenses of primary

Prior to the assessment of the candidates, on the third Monday in June preceding each general primary, the county committee shall also carefully estimate the cost of printing the official ballots, renting polling places where same may be found necessary, providing and distributing all necessary poll books, blank stationery and voting booths required, compensation of election officers and clerks and messengers, to report the result in such precinct to the county chairman, as provided for herein, and all other necessary expenses of holding such primaries in such counties and shall apportion such cost among the various candidates for nomination for district, county and precinct offices only as herein defined, and offices to be filled by the voters of such district, county or precinct only, in such manner as in their judgment is just and equitable; provided, that where a district office, except for Members of the Legislature, covers more than that one (1) county, the assessment of such a candidate by that county shall not be more than a sum which is the quotient of the amount which he would be assessed if he represented only one (1) county determined by the formula used to assess county candidates, when divided by the number of counties in his district. However, where a member of the State Board of Education is elected from a congressional district, the filing fee for any such candidate for the State Board of Education shall not be more than Fifty Dollars (\$50). In making the assessment upon any candidate the committee shall give due consideration to

the importance, emolument, and term of office for which the nomination is to be made and shall, by resolution, direct the chairman to immediately mail to each person whose name has been requested to be placed on the official ballot a statement of the amount of such expenses so apportioned to him, with the request that he pay the same to the county chairman on or before the Saturday before the fourth Monday in June thereafter. It shall be sufficient to meet the requirements of this law to mail by registered letter to the chairman before the deadline herein provided, as shown by the postmark on the letter, a money order, a certified check, or a good personal check. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 186.

Art. 13.09. Balloting at primaries

Upon each official ballot there shall be in the top right-hand corner a detachable stub formed by a perforated line which shall start two (2) inches below the top right-hand corner of the ballot and shall extend two (2) inches to the left and thence to the top edge of the ballot. Upon the stub thus formed there shall be no printing or writing except the number of such ballot and the date and designation of the election, and the words, "NOTE: VOTER'S SIGNATURE TO BE AFFIXED ON THE REVERSE SIDE." All ballots prepared for an election shall be numbered consecutively beginning with No. 1 in each county and the identical number that appears on the stub shall also appear in the top left-hand corner of the ballot. These identical numbers in the top left-hand corner and on the stub in the top right-hand corner shall be printed or stamped in consecutive order on all the ballots prepared for any election, with a separate number for each ballot, at the time of printing and before they are divided up and delivered to the election judges. By the side of each name on the primary ballot there shall be printed a square, thus: .

The vote at all general primaries shall be by official ballot which shall have printed at the head the name of the party, and under such head the names of all candidates, those for each nomination being arranged in the order determined by the various committees as herein provided for, beneath the title of the office for which the nomination is sought. The voter shall mark out all the names he does not wish to vote for; provided, however, if the voter has placed a cross or an X in the box beside the candidate's name it shall be construed as a vote for that candidate if no more such marks have been so placed than there are places to be filled in that particular race. The official ballot shall be printed in black ink upon white paper and beneath the name of each candidate thereof for State and District offices there shall be printed the county of his residence.

On each ballot where officers are to be nominated, there shall be printed just above the names of the candidates these instructions: "You may vote for the candidates of your choice by placing an (X) in the square beside the name, or you may vote for the candidate of your choice in each race by scratching or marking out all other names in that race."

The official ballot shall be printed by the county committee in each county, which shall furnish to the presiding officer of the general primary for each voting precinct at least as many of such official ballots plus ten per cent (10%) as there are poll taxes paid for such precinct, as shown by the Tax Collector's list. Where two (2) or more candidates are to be nominated for the same office, to be voted for by the qualified voters of the same district, county or justice precinct, such candidates shall be voted for and nominations made separately and all nominations shall be separately designated on the official ballots by numbering the same (1), (2), (3), etc., printing the word "No." and the designated number after the title of the office for which such nominations are to be made.

Each candidate for such nominations shall designate in the announcement of his candidacy, and in his request to have his name placed on the official ballot, the number of the nomination for which he desires to become a candidate, and the names of all candidates so requesting shall have their names printed beneath the title of the office and the number so designated. Each voter shall vote for only one (1) candidate for each nomination. Acts 1951, 52nd Leg., p. 1097, ch. 494, art. 187.

Art. 13.10. 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 Section 187 [art. 13.09], 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 Section 187, 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. In all other respects, the official ballot for primary elections provided for in Section 187 shall be subject to regulations contained in Section 187 and other applicable statutes.

Section 2. This law is cumulative and shall not prohibit the printing of ballots corresponding to various precinct offices. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 188.

Art. 13.11. Test on ballot

No official ballot for primary election shall have on it any symbol or device or any printed matter, except a uniform primary test, reading as follows: "I am a _____ (inserting name of political party or organization of which the voter is a member) and pledge myself to support the nominee of this primary"; and any ballot which shall not contain such printed test above the names of the candidates thereon, shall be void and shall not be counted. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 189.

Art. 13.12. Request to go on ballot

The request to have the name of any person affiliating with any party placed on the official ballot for a general primary as a candidate for the nomination of such party for any State office, for any district office, and for any county or precinct office or portion thereof shall be governed by the following:

1. Such request shall be in writing, indicating whether for full term or for an unexpired term, signed and duly acknowledged by the person desiring such nomination, or by twenty-five (25) qualified voters, which request shall be endorsed by the candidate named therein showing his consent to such candidacy, if nominated. It shall state the occupation, county of residence and post-office address of such person, and if made by him shall also state his age.

2. Any such request shall be filed with the State chairman in the case of state-wide races, with the district chairman in the case of districts consisting of more than one (1) county, and with the county chair-

man in the case of county and precinct officers; such request shall be filed not later than the first Monday in May preceding such primary, and shall be considered filed if sent to such chairman at his post-office address by registered mail from any point in this State, provided, however, that in the event that there is no candidate for the nomination of any office due to the death of the one who had filed or for any other reason, applications may be filed not later than the first Monday in June preceding the primary.

3. In the case of district offices consisting of more than one (1) county if there be no chairman of such district executive committee, then the said requests to go on the ballot shall be filed as aforesaid with the chairman of each county composing such district.

4. On the second Monday in June preceding each general primary, the State committee shall meet at some place to be designated by its chairman who shall not less than three (3) days prior to such meeting notify by mail all members of said committee and all persons whose names have been requested to be placed upon the official ballot of such designation. Such committee at this meeting by resolution shall direct their chairman to certify to each county chairman the names and county of residence of such candidates as shown by such requests. Copies of such certificates shall be immediately furnished to each newspaper in the State desiring to publish the same, and one (1) copy shall at once be mailed to the chairman of the executive committee of each county.

5. The terms of this law shall apply to the county chairman and precinct committeemen, and the names of such candidates shall not be printed on the primary ballot unless such application shall have been filed as provided herein. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 190.

Art. 13.13. Certificates to county committee

At the meeting of the county executive committee provided for in Article 3117, the county chairman shall present to the committee the certificates of the chairman of the State and the various district executive committees, showing the names of all persons whose names are to appear on the official ballot as candidates for State and district offices. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 191.

Art. 13.14. Primary committee

Subject to the approval of the committee, the county chairman shall appoint a subcommittee of five (5) members to be known as the primary committee, of which he shall be ex officio chairman. This subcommittee shall meet on the fourth Monday in June and make up the official ballot for such general primary in such county, in accordance with the certificates of the State and district chairman and the request filed with the county chairman, and place the names of the candidates for nomination for State, district, county and precinct offices thereon in the order determined by the county executive committee as herein provided. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 192.

Art. 13.15. Must pay

No person's name shall be placed on the ballot of a district, county or precinct office who has not paid to the county executive committee, the amount of the estimated expense of holding such primary apportioned to him by the county executive committee as hereinbefore provided. Candidates for United States Senator or for Congressman-at-large and all those who are candidates for State offices to be voted upon by the qualified voters of the whole State shall pay to the chairman of the State Ex-

ecutive Committee five per cent (5%) of one (1) year's salary, and shall not be required to pay any other sum or sums to any other person or committee to have their names placed on the ticket as such candidate. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 193.

Art. 13.16. Payments by candidates for State Senator or Representative

No candidate for nomination for State Senator or Representative shall be required to pay to the County Executive Committee to have his name placed on the primary ballot more than the following amounts:

1. One Dollar (\$1) per county for counties having a population of less than five thousand (5,000).
2. Five Dollars (\$5) per county for counties having a population of five thousand (5,000) and not more than ten thousand (10,000).
3. Ten Dollars (\$10) per county for counties having a population of more than ten thousand (10,000) and less than forty thousand (40,000).
4. Fifty Dollars (\$50) per county for counties having a population of forty thousand (40,000) and not more than one hundred and twenty-five thousand (125,000).
5. Seventy-five Dollars (\$75) per county for counties having a population of more than one hundred and twenty-five thousand (125,000) and not more than two hundred thousand (200,000).
6. One Hundred Dollars (\$100) per county for counties having a population of more than two hundred thousand (200,000).
7. One Hundred Dollars (\$100) per county for all senatorial districts composed of no more and no less than two (2) counties, regardless of the population of such counties.

The population in each case is to be determined by the last preceding Federal Census. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 194.

Filing Fees in Senatorial Districts Composed of Two Counties.

Vernon's Ann.Civ.St., art. 3116g, Acts 1951, 52nd Leg., p. 562, ch. 327, § 1, provides as follows:

"In all senatorial districts in this State composed of two (2) counties, no person who is a candidate in a primary election for nomination for State Senator shall have his name placed on such primary ballot unless, and until, he shall have paid to the County Executive Committee of each county of the district a filing fee in the sum of One Hundred (\$100.00) Dollars as such candidate's part of the expenses for holding such primary election; and such candidate shall not be required to pay any other sums to any other person or committee in such counties to have his name placed on the primary election ballot as a candidate for nomination for such office. The term 'primary election', as used in this Act, shall mean and include a first primary and a second or run-off primary, if such be necessary, and a candidate shall not be required to pay any additional sum, or sums, in the event of a second or run-off primary."

The Election Code, Acts 1951, 52nd Leg., p. 1097, ch. 492 effective January 1, 1952, contains a saving clause in art. 247 [art. 14.11] that nothing in such Act shall be construed to nullify or repeal any Act passed at the Regular Session of the 52nd Legislature, 1951.

Section 2 of Acts 1951, 52nd Leg., p. 562, ch. 327, repealed conflicting laws or parts of laws to the extent of the conflict.

Art. 13.17. Order of names on ballot

The various county committees of any political party, on the third Monday in June preceding each general primary, shall meet at the county seat and determine by lot, in open meeting, the order in which the names of all candidates for all offices, including state-wide races, requested to be printed on the official ballot shall be printed thereon. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 195.

Art. 13.18. County executive committees

There shall be for each political party required by this law to hold primary elections for nomination of its candidates, a county executive committee, to be composed of a county chairman, and one (1) member from each election precinct in such county; the committeeman from such election precinct shall be chairman of his election precinct, and the said county chairman shall be elected on the general primary election day; the county chairman by the qualified voters of the whole county, and the precinct chairman by the qualified voters of their respective election precincts. Said county and precinct chairman shall assume the duties of their respective offices on Saturday following the run-off primary immediately after the committee has declared the results of the run-off primary election. Said county chairman shall be ex officio a member of the executive committee of all districts of which his county is a part, and the district committee thus formed shall elect its own chairman. Any vacancy in the office of chairman, county or precinct, or any member of such committee shall be filled by a majority vote of said executive committee. The list of election precinct chairmen and the county chairman so elected, shall be certified by the county committee to the county clerk, along with the other nominees of said party. If there are no requests filed for candidates for county and precinct chairman, a blank space shall be left on the ticket beneath the designation of such position.

The County Executive Committee may name a secretary who is hereby authorized to receive applications for a place on the primary ballot and when so received the application shall be officially filed. The compensation allowed the secretary and the chairman for their services shall in no case exceed five per cent (5%) of the primary budget for that year.

The County Chairman shall within thirty (30) days of the run-off primary make or have made a detailed financial report or audit of all moneys received, expended, and on-hand; such audit or financial statement shall be sworn to by the County Chairman as to its accuracy and shall be filed with the County Clerk not later than November 1st of that year; such audit or financial statement shall be open to public inspection. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 196.

Art. 13.19. Supplies

The executive committee shall have a general supervision of the primary in such county, and shall be charged with the full responsibility for the distribution to the presiding judge of all supplies necessary for holding same in each precinct. If the duly appointed presiding officer shall fail to obtain from the executive committee the supplies for holding such election, such committee shall deliver the same to the precinct chairman for such precinct, and, if unable to deliver the same to such presiding officer or precinct chairman not less than twenty-four (24) hours prior to the time of opening the polls for such primary, such committee shall deliver the same to any qualified voter of the party residing in such precinct, taking his receipt therefor, and appointing him to hold such elec-

tion in case such presiding officer or precinct chairman shall fail to appear at the time prescribed for opening the polls. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 197.

Art. 13.20. Booths used for primary

The voting booths, ballot boxes and guard rails, prepared for a general election, may be used for the organized political party nominating by primary election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 198.

Art. 13.21. Lists of voters

The county tax collector shall deliver to the chairman of the county executive committee of each political party, for its use in primary elections, at least five (5) days before election day, certified and supplemental lists of the qualified voters of each precinct in the county, arranged alphabetically and by precincts, and such chairman shall place the same for reference in the hands of the election officers of each election precinct before the polls are open. No primary election shall be legal, unless such list is obtained and used for reference during the election. Opposite the name of every voter on said list shall be stamped, when his vote is cast, with a rubber or wooden stamp, or written with pen and ink the words "primary—voted," with the date of such primary under the same. For each list of all the qualified voters of the county who have paid their poll taxes or received their certificates of exemption, the collector shall be permitted to charge not more than Five Dollars (\$5), the same to be paid by the party or its chairman so ordering said lists; provided, that the charge of Five Dollars (\$5) shall be in full for the certified lists of all the voters of the county arranged by precincts, as herein provided. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 199.

Art. 13.22. Precaution against fraud

The same precautions required by law to secure the purity of a ballot box in general elections, in regard to the ballot boxes, locking the ballot boxes, sealing the same, watchful care of them, the secrecy in preparing the ballot in the booth or place prepared for voting and the procedure involving the removal of the detachable stub and the depositing of the ballot and the stub in the proper boxes shall be observed in all primary elections. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 200.

Art. 13.23. Time for returns by judges; delivery of copy and posting of returns; completion of returns

The presiding judges of party primary elections in all election precincts of this State, within twenty-four (24) hours after the counting of the votes in the respective precincts have been completed (which must be completed within twenty-four (24) hours after the closing of the polls) shall make returns to the County Clerks of the respective counties of the ballot boxes containing ballots voted, locking and sealing tally sheets, poll lists, return sheets, ballots mutilated and defaced, and ballots not voted; the presiding judge shall deliver the key or keys to the sheriff who shall keep the same for thirty (30) days. The presiding judges shall also deliver a copy of the returns to the County Clerk whose duty it shall be to read the same as soon as received and he shall immediately post said returns at a conspicuous place within his office. The County Chairman shall, within twenty-four (24) hours after the votes have been canvassed by the County Executive Committee, as provided in Section 202 [art. 13.24] of this Act, mail to the State Chairman of the respective parties complete returns as to the results of said party primary elections as to

the several State and district offices. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 201.

Art. 13.24. Triplicate returns and canvass

Immediately upon the completion of counting of the ballots, the precinct election judges shall prepare and make out triplicate returns of the same, showing: (1) the total number of votes polled at such box; (2) the total number of votes cast at such box for each candidate, and the total number of votes polled at such box for or against any proposition voted upon.

Such returns shall be signed and certified as correct by the judges and clerks of the election precinct. One (1) copy of said returns shall be sealed up in an envelope and delivered by one (1) of the precinct judges of the election to the Chairman of the County Executive Committee immediately after the ballots have been counted and the proper records made in connection therewith; one (1) copy of said returns shall be placed in one (1) of the ballot boxes, together with the ballots voted and shall be locked and sealed therein; the remaining copy of said returns shall be immediately delivered to the County Clerk as provided in Section 201 [art. 13.23] of this Act. The Chairman of the County Executive Committee shall, upon receiving returns from each election precinct in the county, order the members of the County Executive Committee to convene at the county seat of the county on the following Tuesday succeeding the day of such primary elections and the returns shall be opened by the Executive Committee in executive session and shall be canvassed by them. The County Attorney shall, upon relation of the County Chairman, immediately institute mandamus proceedings in the proper court to compel the delinquent returning officers to make proper returns as required by law, and it shall be the duty of the County Chairman and County Clerk to notify the County Attorney of the delinquency. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 202.

Art. 13.25. Canvass by committee

At the meeting of the county executive committee, provided for in Section 202 [art. 13.24], returns from the election precincts of the county shall be canvassed by the committee. Within the meaning of this Act, such canvass shall include an actual checking and comparison of the voting lists with the tally lists and return sheets, and a mere tabulation of votes shown by the returns sheets shall not be deemed a compliance with this provision. All discovered errors in the returns shall be corrected before the results of the election are certified, and upon the sworn statement of any candidate filed with the committee before the actual printing of the official ballot, setting out alleged errors in the primary election returns as certified by the county executive committee, the said committee shall be reconvened for the investigation and consideration of such alleged error, which provision is hereby declared to be mandatory and may be enforced by writ of mandamus. The said committee shall have the power to exclude any vote that is prima facie illegal, but any vote involving a question of law, or mixed question of law and fact shall not be determined by the committee. When the votes have been canvassed in accordance with the foregoing provisions and the result thereof declared by the committee, the chairman of the executive committee shall make a list of the candidates for county and precinct offices who received the necessary vote to nominate and shall certify the same and deliver it to the county clerk of the county. At the meeting of the executive committee after the first primary in case no candidate received a majority of the votes, the county executive committee shall determine the two (2) candidates

who received the highest number of votes cast for all candidates for the particular office and order their names printed on the ballot for the second primary. After the second primary, the said State Executive Committee shall certify to the County Clerk the names of the district candidates receiving the highest vote to be placed on the general election ballot. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 203.

Art. 13.26. Tie in primary

If, upon a canvass of the returns of the first primary election, it appears that for a county or precinct office, the two (2) highest candidates have received an equal number of votes, then the names of such two (2) highest candidates shall be certified for places on the ballot of the second primary, unless the said candidates shall agree in writing to cast lots for such nomination. In case the second and third highest candidates in that race shall be tied and no one has a majority the provisions of Section 181 [art. 13.03] shall govern. Should a tie vote result from any contest in the second primary election, then the executive committee shall provide for the casting of lots in the presence of said candidates, and that candidate who shall be successful by lot shall be certified as the nominee for such office. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 204.

Art. 13.27. Tabulated Statement

The chairman of the executive committee in each county shall, within twenty-four (24) hours after the vote in the primary election has been counted and canvassed, as provided in this chapter, prepare a tabulated statement of the votes cast in his county for each candidate for each nomination for a State, district, county or precinct office, and of that cast for county chairman, as shown by the canvass made by the county executive committee, and shall within forty-eight (48) hours mail such statement as to a State or district office, in a sealed envelope by registered letter, to the chairman of the state executive committee, who shall present the same to the state executive committee, as herein provided. The state executive committee shall meet at the seat of government not later than the second Saturday following the day of the first primary election and shall canvass the returns for all State and district offices. In the event any candidate for a district office received in the first primary the necessary vote to nominate, the state executive committee shall certify the name of such candidate to the county clerks of the proper district to be printed upon the official ballot for the general election as a candidate of the party for said office. In the event no candidate for a particular State or district office received the necessary vote to nominate at the first primary, the state executive committee shall upon canvassing the returns, determine the two (2) candidates who received the largest number of votes cast for all candidates for the particular State or district office and shall order that the names of these candidates be printed upon the official ballot for the second primary election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 205.

Art. 13.28 Boxes and ballots returned

Ballot boxes, after being used in the primary elections, shall be returned to the County Clerks as provided in Section 201 [art. 13.23] of this Act, and unless there be a contest for a nomination in which fraud or illegality is charged, they shall be unlocked and unsealed by the County Clerk and their contents destroyed by the County Clerk and the County Judge without examination of any ballot at the expiration of sixty (60) days after such primary election. Provided that the District Judge, upon his own

motion, or upon the request of the County or District Attorney, may, by an order entered on the minutes of the District Court, defer the destruction of the contents of such ballot boxes for a period not to exceed twelve (12) months after such primary election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 206.

Art. 13.29. To publish nominees

The County Clerk, under his official hand and seal, shall cause the names of the candidates who have received the necessary vote to nominate as directed by the county executive committee and as certified by the chairman of said committee, for each office, to be published in some newspaper published in the county, if any there be, but if there be no newspaper published in the county, then he shall post a list of such names in at least five (5) public places in the county, one (1) of which notices shall be posted at the courthouse door. Provided, that if a contest for the nomination for any county or precinct office in the county be pending, posting and/or publication as to that office shall be deferred until the contest is finally determined after which, he shall post or publish as to that particular office as hereinabove set out. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 207.

Art. 13.30. Contest of primary nominations

(1) The district court shall have original and exclusive jurisdiction of all contests for nominations growing out of primary elections.

(2) The venue of suits or contests between candidates for nomination for State office and United States Senator and Congressman-at-large is hereby fixed in the District Court of Travis County, Texas, unless the parties shall agree upon some other county. The venue of suits between candidates involving party nomination for district offices and United States Congressman shall be in the county in which the fraud or illegality is alleged to have occurred, or in the county that may be agreed upon by the parties. The venue of suits involving party nominations for precinct or county offices shall be fixed as in the county where such cause of action originated. Provided, that nothing herein shall be construed to prohibit the district court in the county where any such contest may be filed from changing the venue to some other adjacent county, upon showing of adequate cause, and in the event of any such change of venue, the district court of the county to which such contest is transferred shall be governed by all the provisions of this Act.

(3) Any candidate desiring to contest the declared result of any primary election in which he was a candidate, shall file his suit in the district court within ten (10) days from the date of declaring the result by the executive committee, and process with a true copy of the petition or complaint attached thereto shall be served upon the opposite party as in other civil suits, except that the return day thereof shall be fixed by the district judge. If the contestee cannot be found within the county in which the contest is filed, service may be had upon the agent or attorney of the contestee, or by leaving the process with some person over the age of sixteen (16) years at the usual place of abode or business of such contestee, or his last address. If service cannot be effected within three (3) days in any of the above methods, service upon the contestee may be had by serving the County Clerk in the county where suit is filed, and any candidate who files for a place on the ballot in the primary election shall thereby appoint such County Clerk as his agent to receive service for him under the circumstances above set forth.

(4) The filing of the suit shall be immediately called to the attention of the district judge by the clerk of said court. If the district court be

then in session, the judge thereof shall set the said contest for trial at a date not more than ten (10) days from the date of the filing of said contest. If the district court be not in session at said time, the judge thereof shall order a special term of said court to be convened not later than ten (10) days from the filing of such contest for the hearing of same, and in either case, the said contest shall have precedence over all other matters.

(5) For good cause shown, supported by affidavit of either party, the trial of said contest, in the discretion of the court, may be postponed one (1) time for not exceeding five (5) days.

(6) The contestee shall file his answer within five (5) days from the filing of such suit, but either party, or both, shall have the right to amend before announcing ready for trial and set up additional causes of action or matters of defense, as the case may be. Any further changes in the pleadings shall be within the sound discretion of the court.

(7) In the trial of such cause the trial judge shall have wide discretion as to matters of pleading, procedure and admissibility of evidence, the purpose of this Section being to subserve the ends of justice, rather than strict compliance with technical rules of pleading, procedure, and evidence.

(8) The said court shall have the power to appoint commissioners to sit at such places as the court may designate for the purpose of hearing testimony, reducing same to writing and reporting same to said court, said court shall also have the power to issue all orders that may be necessary or proper to compel the production before said court or any commissioner appointed by said court of all ballot boxes and instrumentalities proper to determine the issue raised by such contest, and to send by proper process to any county in the State, for the officers of the election or the custodians of ballot boxes for the purpose of aiding in, ascertaining and determining any matter or thing necessary or proper in connection with the trial of said contest.

(9) Upon the trial of said cause, the court shall have full power and authority to hear and determine all matters and things necessary or proper to the determination of such election contest, including the manner of holding the election, any frauds or irregularities in the conduct thereof, or in the making of the returns thereof, illegal votes cast at said election or legal votes prevented from being cast, false calculations, certificates or returns, and to exercise all powers of the court, in order to fully inquire into and ascertain the true and correct result of such election, free from any fraud, irregularity or mistake.

(10) In addition to the powers and authority heretofore granted to the district courts, where fraud or illegality is charged, if such charges of fraud or illegality be supported by some evidence, or by affidavit of reputable persons, and the ends of justice seem to require it, the court shall have authority to unseal and reopen the ballot boxes to determine controverted issues, and the court may recount, or under its direction cause to be recounted, the ballots cast in any or all precincts of the county to determine the true result of such election. In all such cases in which a reopening of ballot boxes is ordered, the court shall exercise all due diligence to preserve the secrecy of the ballots, and upon completion of such recount, the said ballot boxes with their original contents shall be resealed and redelivered to the county clerk.

(11) When the District Court shall have decided the contest, unless notice of appeal to the Court of Civil Appeals be given and an appeal bond filed within five (5) days, the said Court shall certify its findings to the officers charged with the duty of providing the official ballot for the

ensuing election for observance in the preparation of the ballot for that particular party. The trial Court shall further fix a time within which the record in the trial Court shall be filed in the appellate Court, and make all such other orders in the cause as in his discretion may be necessary and expedient in order to expedite such appeal.

(12) In all contests for party nominations filed in the district courts under authority of this Act, either party thereto may appeal to the Court of Civil Appeals for that particular Supreme Judicial district, which appeal shall be advanced upon the docket of said court and shall have precedence over all other cases. Provided, that no appeal in such cases shall be dismissed as moot merely because of possible interference with the printing of the official ballot unless the appellant has been guilty of negligence in perfecting and prosecuting such appeal, but such appellate court shall retain jurisdiction of such appeal and expeditiously dispose of same. Upon decision of the appeal by the Court of Civil Appeals no motion for rehearing shall be filed except with approval of the court given within three (3) days after such decision. The Supreme Court of Texas shall have no jurisdiction to review any election contest filed under this Act by writ of error, certified question, or any other manner. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 208.

Art. 13.31. Name printed on ballot

After the names of the successful candidates have been published or posted in compliance with Section 207 [art. 13.29], and all contests, if any, have been determined, the county clerk shall cause the names of all the nominees to be printed on the official ballot in the column for the ticket of that party. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 209.

Art. 13.32. To post names of candidates

Each county clerk shall post in a conspicuous place in his office, for the inspection of the public the names of all candidates that have been lawfully certified to him to be printed on the official ballot, for at least ten (10) days before he orders the same to be printed on said ballot; and he shall order all the names of the candidates so certified printed on the official ballot as otherwise provided in this title. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 210.

Art. 13.33. Referendum on platform demands

No political party in this State, in convention assembled, shall place in the platform or resolutions of the party they represent any demand for specific legislation on any subject, unless the demand for such specific legislation shall have been submitted to a direct vote of the people, and shall have been endorsed by a majority of all the votes cast in the primary election of such party; provided, that the State executive committee, shall, on petition of ten per cent (10%) of the voters of any party, as shown by the last primary election vote, submit any such question or questions to the voters at the general primary next preceding the State convention. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 211.

Art. 13.34. County and precinct conventions

On the first Saturday after the primary election day of 1952 and each two years thereafter there shall be held in each county a county convention of each party, to be composed of one delegate from each precinct in such county, for each twenty-five votes, or major fraction thereof, cast for the party's candidate for Governor in such precinct at the last preceding general election, which delegate or delegates shall be elected by

the qualified voters of each precinct on primary election day at precinct conventions to be held on said day, which county convention shall elect one delegate to the State Convention for each three hundred votes, or major fraction thereof, cast for the party's candidate for Governor in such county at the last preceding general election, the delegates to said convention so elected or such of them as may attend said convention shall cast the vote of the county in such convention. The qualified voters of each voting precinct of the county shall assemble on the date named and shall be called to order by a precinct chairman who shall have been previously elected by the qualified voters of the precinct or if such elected chairman is unavailable, then the precinct chairman appointed by the county executive committee of the party, and who shall be a qualified voter of said election precinct or in his absence by any qualified voter. Before transacting any business the precinct chairman shall cause to be made a list of all qualified voters present. The name of no person shall be entered upon said list nor shall he be permitted to vote, be present at, or to participate in the business of such convention until it is made to appear that he is a qualified voter in said precinct from a certified list of the qualified voters, the same as is required in conducting a general election. Any qualified voter, whose name appears on the certified list of qualified voters, shall be permitted to participate in and vote in said convention. Said precinct convention shall elect from among those present and qualified a permanent chairman and such other officers as may be necessary to conduct its business. The chairman of said convention shall possess all the power and authority that is given to election judges by the provisions of this Code. After the convention is organized it shall elect its delegates to the county convention and transact such other business as may properly come before it. The officers of the precinct convention shall keep a written record of its proceedings, including a list of delegates elected to the County Convention which shall constitute the returns from said convention. The record, and a copy thereof, shall be signed officially, sealed up and safely transmitted by the permanent chairman of the precinct convention within three (3) days after the precinct convention to the county clerk of the county, who shall affix his file mark thereto and who shall promptly deliver the original copy of such return to the chairman of the county executive committee, and the return filed with the county clerk shall be open to public inspection during the regular office hours. The chairman of the county executive committee shall deliver the list of delegates named by the precinct conventions in the county to the county convention and said lists shall constitute the temporary roll of those selected as delegates to the county convention, and only delegates on such temporary roll shall be permitted to vote in the temporary organization of said county convention. The county convention shall elect a permanent chairman and such other officers as may be necessary to conduct its business and immediately upon the adjournment of each such county convention the permanent chairman thereof shall make out a certified list of the delegates chosen together with a copy of all resolutions adopted by the county convention and shall sign the same, the permanent secretary of such convention attesting his signature, and within five (5) days after said county convention shall forward such certified list, resolutions and copies of each thereof by sealed registered letter to the Secretary of State in Austin, Texas, who shall affix his file mark thereon and who shall deliver the originals thereof to the chairman of the State executive committee prior to the State convention, who shall deliver the same to the State convention; and such lists shall constitute the temporary roll of those selected as delegates to such convention, and only delegates on such temporary roll shall be permitted to vote in the

temporary organization of the State convention. No person shall be permitted to hold a proxy or vote a proxy at a State convention from more than one county. The county executive committee in its meeting on the second Monday in June preceding the general primary election or, upon its failure to act, the county chairman, shall determine the hour and place at which the precinct conventions shall be held on primary election day, and the county chairman shall be required to post a copy of this order on a bulletin board at the county courthouse and file a copy of the same in the office of the county clerk where the same shall be open to public inspection. This notice shall be posted by the county chairman at least ten (10) days prior to the holding of the precinct conventions. Also at this meeting the county executive committee, or, upon its failure to act, the county chairman, shall decide the hour and place at which the county convention shall be held on the first Saturday after primary election day and the county chairman shall post this order on the bulletin board at the county courthouse and also file a copy of this notice with the county clerk. This notice shall also be posted at least ten (10) days prior to the date of the county convention. Should the county chairman fail to post such orders and file such notices, then any member of the county executive committee may post such orders and file such notices and such shall constitute the orders and notices required herein. Should more than one such member of the county executive committee post such orders and file such notices, then the first posting and filing in point of time shall prevail. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 212.

Precinct and County Conventions.

Vernon's Ann.Civ.St., art. 3158a, Acts 1951, 52nd Leg., p. 71, ch. 44, §§ 1-3, provides as follows:

"Section 1. The provisions of this Act shall apply only to political parties whose nominees for Governor in the last preceding general election received as many as ten thousand (10,000) votes and less than two hundred thousand (200,000) votes.

"Sec. 2. The County Executive Committee of any such political party, at its meeting on the second Monday in June of each general election year, and likewise at a meeting held at least twelve (12) days before the first Saturday in May of each Presidential election year, shall determine the hour and places of holding precinct conventions in such county as well as the hour and place of holding the county convention. Should the County Executive Committee fail to do so, it shall be the duty of the county chairman to make such determination. It shall be the duty of the chairman of such committee to post, or cause to be posted at the courthouse door of such county, at least ten (10) days prior to such precinct conventions, a statement showing the hour and places where such precinct conventions shall be held, as well as the hour and place for holding the county convention. At the same time such chairman shall file with the county clerk as a public record, a copy of such notice giving the hour and places for holding such precinct and county conventions. The fee for filing such notice shall be One Dollar (\$1). Such notice filed with the county clerk shall be open to inspection by the public during office hours of the county clerk. Failure of the county chairman to post or to file the above notice as provided above, shall make such chairman ineligible to be a delegate or alternate delegate, or to hold or vote a proxy at the next succeeding county, district and State conventions of such party.

"Should the county chairman fail to file with the county clerk a statement showing the hour and place of holding the precinct conventions in any precinct in such county, then any qualified voter, resident in such precinct, may file with the county clerk a notice of the hour and place of the holding of such precinct convention, and such shall constitute the legal hour and place therefor. Should more than one (1) such qualified voter file such notice then the first filing in point of time shall prevail.

"A certificate of the county clerk as to the filing or nonfiling of any such notice provided in this section shall be conclusive.

"The county chairman shall not appoint any precinct chairman during that period of time subsequent to the posting and filing of notices for the precinct conventions, and prior to the time of holding such precinct conventions.

"Nothing herein, however, shall prevent qualified voters of a precinct having no chairman from meeting, electing their own chairman and holding a precinct convention of such party; but if an hour and place therefor has been designated in either of the methods provided above, then the convention shall be held at such hour and place.

"The county convention of any such party shall be held in a public place at the county seat.

"Sec. 3. In State conventions of any such political party (other than conventions held to select delegates to National conventions of such party) each county shall be entitled to one (1) vote for each three hundred (300) votes, or major fraction thereof, cast for its candidate for Governor at the last preceding general election; and in conventions held to select delegates to National conventions of such party, each county shall be allowed one (1) vote for each three hundred (300) votes or major fraction thereof cast for its candidate for President at the last preceding presidential general election. In case, at any such election, there were cast for such candidate for Governor or President, respectively, less than three hundred (300) votes in any county, then such county shall have one (1) vote."

Vernon's Ann.Civ.St., art. 3154(a), added by Acts 1951, 52nd Leg., ch. 44, § 4, provides as follows:

"The terms 'primary conventions' or 'convention' as used in Articles 3154 to 3158 (both inclusive), Revised Civil Statutes of Texas of 1925, shall have the same meaning as is given the terms 'election' and 'primary election' in Title 50, Revised Civil Statutes of 1925; and all organized political parties nominating or electing under convention procedure shall be subject to the jurisdiction of the courts of this State for non-compliance with, or violation of relevant Civil and Penal Statutes governing general, special and primary elections and conventions."

The Election Code, Acts 1951, 52nd Leg., p. 1097, ch. 492 effective January 1, 1952, contains a saving clause in art. 247 that nothing in such Act shall be construed to nullify or repeal any Act passed at the Regular Session of the 52nd Legislature, 1951.

Section 5 of Acts 1951, 52nd Leg., p. 71, ch. 44, repealed conflicting laws and parts of laws to the extent of the conflict only.

Art. 13.35. Place for State convention

At the meeting of the State Executive Committee held on the second Monday in June preceding each general primary election the said com-

mittee shall decide upon the hour and place where the State convention of the party shall be held on the first Tuesday after the third Monday after the fourth Saturday in August, A.D. 1952, and each two (2) years thereafter. The chairman of the State executive committee shall file with the Secretary of State a notice of the hour and place of holding the State convention and a copy of such notice shall be mailed to the county chairman of that party in each county in the State at least ten (10) days before the convention is held. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 213.

Art. 13.36. State committee to canvass

On the third Monday after the fourth Saturday in July, 1952, and every two (2) years thereafter, the State executive committee shall meet at a place selected at the meeting held on the second Monday in June preceding, and shall open and canvass the returns of the primary elections held on the fourth Saturday in July as to candidates for State offices, as certified by various county chairmen, and shall prepare a tabulated statement showing the number of votes received by each such candidate in each county, which statement shall be approved by the State committee and certified by its chairman. If such returns show that for any State office no candidate received a majority of all the votes cast for all candidates for such office, such committee shall prepare a list of the two candidates receiving the highest vote for each office for which no candidate received a majority of votes cast at such primary for such office and shall certify same to the county chairman of the several counties to be placed upon the official ballot as candidates for office at the second primary election to be held on the fourth Saturday in August thereafter. On the third Monday after the fourth Saturday in August, 1952, and every two years thereafter, the State executive committee shall meet at the place selected for the meeting of the State convention and shall open and canvass the returns of the second primary election held to nominate candidates for State offices as certified by the various county chairmen to the State chairman, and shall prepare a tabulated statement showing the number of votes received by each such candidate in each county, which statement shall be approved by the State committee and certified by its chairman. At this meeting the State committee shall also prepare a complete list of the delegates elected to the State conventions from each county as certified to the Secretary of State by the permanent chairman of each county convention and delivered to them by the Secretary of State in accordance with the provisions of Section 212 [art. 13.34] of this Act. The State chairman shall present said tabulated statement and list of the delegates to the State convention, and the said list shall constitute the temporary roll of those selected as delegates to the State convention, and only delegates on such temporary roll shall be permitted to vote in the temporary organization of the State convention. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 214.

Art. 13.37. State convention to canvass

The State convention shall canvass the vote cast in the entire State for each candidate for each State office as shown by the statement thereof presented to it by the State committee, and shall declare the candidate for each State office who has received a majority of votes cast for all candidates for such office in the first primary election, if any candidate receives a majority of all the votes cast for all the candidates for such office at said primary election, and if no candidate received such majority, then it shall declare the candidate who received a majority of all votes cast for such office at the second primary election, the nominee of the

party for such office; and the chairman and the secretary of the State convention shall forthwith certify all such nominations to the Secretary of State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 215.

Art. 13.38. State Convention

All party State Conventions to announce a platform of principles and announce nominations for Governor and State offices shall, except as otherwise provided, meet at such places as may be determined by the parties respectively on the Tuesday after the third Monday after the fourth Saturday in August, 1952, and every two (2) years thereafter, and they shall remain in session from day to day until all nominations are announced and the work of the convention is finished. Said convention shall elect a chairman and a vice-chairman of the Executive Committee, one (1) of whom shall be a man and the other a woman, and sixty-two (62) members thereof, two (2) from each senatorial district of the State, one (1) of whom shall be a woman and the other a man, the members of said committee to be those who shall be recommended by the delegates representing the counties composing the senatorial districts respectively, each county voting its convention strength, each of whom shall hold said office until his successor is elected; and, in case of a vacancy, majority of the members of said committee shall fill the same by electing some eligible person thereto, but such person shall be of the same sex as vacating member and from the same senatorial district.

At any meeting of the State Executive Committee a person can not hold a proxy or participate in such meeting unless he or she is a resident of the same senatorial district as the member giving the proxy, and no person shall be permitted to hold or vote more than one (1) proxy. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 216.

Art. 13.39. Certificate of nomination

Every certificate of nomination made by the president of the State convention, or by the chairman of any executive committee, must state when, where, by whom, and how the nomination was made. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 217.

Art. 13.40. Convention Vote

Each county in the State or District Convention shall be entitled to one (1) vote for each three hundred (300) votes or major fraction thereof, cast for its candidate for Governor of the political party holding the convention, at the preceding general election. In case, at such general election there were cast for such candidate for Governor less than three hundred (300) votes in any county, then all such counties shall have one (1) vote. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 217.

Art. 13.41. Mandamus

Any executive committee or committeeman or primary officer, or other person herein charged with any duty relative to the holding of the primary election, or the canvassing, determination or declaration of the result thereof, may be compelled by mandamus to perform the same in accordance with the provisions of this Code. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 218.

Art. 13.42. Spirit of law

No immaterial error made by any officer of a primary election, or any immaterial violation of the primary election laws by an elector, shall vitiate any election held under this title, nor be the cause of throwing out

the vote of any election precinct. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 219.

Art. 13.43. Contest of primary

Except for a place on party tickets for public elective offices, all contests within a political party shall be decided by the State, district, or county executive committee, as the nature of the office may require, each such committee to retain all such powers and authority now conferred by law. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 220.

Art. 13.44. Parties of ten thousand (10,000) and less than two hundred thousand (200,000)

The provisions of Articles 2980, 3008, and 3012, Revised Civil Statutes of Texas, 1925, as amended by this Act, relative to the form, numbering and secrecy of the ballot, as well as the procedure involving the selection of the ballot and the removal of the detachable stub, shall apply to all primary elections as well as those held under or by authority of Chapter 467, Acts, Second Called Session, Forty-fourth Legislature, as amended, except as provided in Section 7 [art. 1.07] hereof. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 221.

Art. 13.45. May nominate

Each political party whose nominee for Governor in the last preceding general election received as many as ten thousand (10,000) votes and less than two hundred thousand (200,000) votes, may nominate candidates for State, district and county offices under the provisions of this law by primary election and they may nominate candidates for State offices and for United States Senator at a State Convention, which shall be held the fourth Tuesday in August, and which shall be composed of delegates selected in the various counties and county conventions held on the first Saturday after primary election day, which shall be composed of delegates from the general election precincts in such counties elected therein at primary conventions, held in such precincts on the third Saturday in July. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 222.

Art. 13.46. State committee to determine mode

The State committee of political parties which are not required by law to make nominations by a primary election shall meet at some place in the State to be designated by the chairman thereof on the second Tuesday in May, and shall decide, and by resolution declare, whether they will nominate State, district and county officers by convention or primary elections, and shall certify their decision to the Secretary of State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 223.

Art. 13.47. For district offices

Nominations for district offices made by such parties shall be made by conventions held on the second Tuesday of August of the election year, composed of delegates elected thereto at county conventions held on the same day herein prescribed for such county conventions of other parties all of which county conventions shall nominate candidates for county offices of such party. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 224.

Art. 13.48. Nominations certified

All nominations so made by a State or district convention shall be certified by the chairman of the State or district committee of such party to the Secretary of State and a nomination made by a county convention,

by the chairman of the county committee. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 225.

Art. 13.49. Illegal participation

No person shall be allowed to participate in any such convention who has participated in the convention or primary of any other party held on the same day. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 226.

Art. 13.50. Non-partisan and Independent Candidates

The name of a non-partisan or independent candidate may be printed on the official ballot in the column for independent candidates, after a written application signed by qualified voters addressed to the Secretary of State and delivered to him within thirty (30) days after the second primary election day as follows; if for a State office to be voted for throughout the State, one per cent (1%) of the entire vote of the State cast for Governor at the last preceding general election; if for a congressional, supreme judicial, senatorial, representative, flatorial or judicial district office, three per cent (3%) of the entire vote cast for Governor in any such district at the last preceding general election; provided, that the number of signatures need not exceed five hundred (500) for any congressional, senatorial or judicial office, nor for any other office that is not filled by all the voters of the State. No application to the Secretary of State shall contain the name of more than one (1) candidate, and no citizen shall sign such application, unless he has paid his poll tax or received his certificate of exemption; provided, that, if the office is one to which two (2) or more persons are to be elected, his application may be for as many candidates as there are persons to be elected to that office; and provided, also that no person who has voted at a primary election shall sign an application in favor of any one for an office for which a nomination was made at such primary election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 227.

Art. 13.51. Oath to application

To every citizen who signs such application, shall be administered the following oath, which shall be reduced to writing and attached to such application, viz.: "I know the contents of the foregoing application; I have participated in no primary election which has nominated a candidate for the office for which I (here insert the name) desire to be a candidate; I am a qualified voter at the next general election under the Constitution and laws in force, and have signed the above application of my own free will." One (1) certificate of the officer before whom the oath is taken may be so made as to apply to all to whom it was administered. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 228.

Art. 13.52. Must consent to run

The Secretary of State shall, on receipt of the application which conforms to the above requirements, issue his instruction to the county clerks of this State, or of the district, as the case may require, directing that the name of the citizen, in whose favor the application is made, shall be printed on the official ballot in the independent column under the title of the office for which he is a candidate; provided, that the citizen, in whose favor the application is made, shall first file his written consent with the Secretary of State to become a candidate, within thirty (30) days after primary election day. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 229.

Art. 13.53. Independent candidates at county, city or town election

Independent candidates for office at a county, city, or town election may have their names printed upon the official ballot on application to the County Judge, if for a county office, or to the mayor, if for a city or town office, such application being in the same form and subject to the same requirements herein prescribed for applications to be made to the Secretary of State in case of State or district independent nomination; provided, that in county elections it shall be necessary for nomination of independent candidates for the independent candidate to file a petition with the County Judge, signed by five per cent (5%) of the entire vote cast in such county at the last general election, endorsing such candidate for a particular county office. And provided further, in elections for a city or town office, it shall not be necessary that independent candidates be nominated, but anyone otherwise qualified may have his name printed upon the official ballot for a particular office by filing his sworn application with the Mayor at least thirty (30) days prior to the election day and by paying such filing fees as may be required by Statute or by charter provision. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 230

Art. 13.54. By Parties Without State Organization

Any political party without a State organization desiring to nominate candidates for county and precinct offices only may nominate such candidates therefor under the provisions of this title by primary elections or by a county convention held on the legal primary election day, which convention shall be composed of delegates from various election precincts in said county, elected therein at primary conventions held in such precincts between the hours of 8:00 a. m. and 10:00 p. m. on the date set by law. All nominations made by any such parties shall be certified to the county clerk by the chairman of the county committee of such party, and, after taking the same course as nominations of other parties so certified, shall be printed on the official ballot in a separate column, headed by the name of the party; provided, a written application for such printing shall have been made to the county judge, signed and sworn to by three per cent (3%) of the entire vote cast in such county at the last general election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 231.

Art. 13.55. For City and Town Elections

Each incorporated city or town in this State, whether incorporated under the general or special laws, may make nominations for office in the following manner: in each of said cities and towns there shall be an executive committee for each political party, consisting of a city chairman and one (1) member for each ward in such city or town, and in case such city or town is not divided into wards, for either political or election purposes, then there shall be selected four (4) members of said committee, in addition to the city chairman. If any city or town shall be divided into wards, for either political or election purposes, or both, then such party executive committee shall consist of one (1) member from each ward and a city chairman of such executive committee. Provided, however, that no city or town in this State shall have a smaller number than four (4) executive committeemen and a chairman of such executive committee. In all cities and towns which now have no executive committee, the county chairman of the party desiring to make nominations in such cities and towns shall appoint an executive committee to serve until the next city election shall be held, and in each city and town in this State in which a political party may desire to make nominations, there shall be held, at least thirty (30) days prior to the regular city election, an election at which there may be nominated by such political party, officers

to be elected at the next city election, and at which election there shall be selected the executive committee for such party in said city or town herein provided for, and in all such city primary elections, the provisions of the law relating to primary elections and general elections shall be observed. The executive committee herein provided for may decide whether or not nominations shall be made by such political party in such city or town; provided, that upon petition being made to said city or county chairman, signed by twenty-five per cent (25%) of the voters of the party in such city, as shown by the last general State election, requesting that party nominations be made for city officers, then said city executive committee, through an order of its chairman, shall order a primary election or mass convention of the qualified voters of the party, as may be petitioned for by the voters presenting said petition, and it shall thereupon be the duty of said city executive committee to grant such request as shall be contained in such petition, and such primary election or mass convention shall be ordered, and it shall be mandatory upon such city or county chairman to order such election or mass convention to be held within ten (10) days from the time such petition is presented. At such primary election or mass convention a new executive committee shall be selected to serve during the ensuing terms; provided that this law shall not be construed so as to prevent independent candidates for city offices from having their names upon the official ballot, as provided by law. This section shall not repeal the provisions of any charter heretofore or hereafter specially granted to any city in this State. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 232.

Art. 13.56. Nomination declined

A nominee may decline and annul his nomination by delivering to the officer with whom the certificate of his nomination is filed, ten (10) days before the election, if it be for a city office, and twenty (20) days in other cases, a declaration in writing, signed by him before some officer authorized to take acknowledgments. Upon such declination (or in case of death of a nominee), the executive committee of a party, or a majority of them for the State, district or county, as the office to be nominated may require, may nominate a candidate to supply the vacancy by filing with the Secretary of State in the case of State or district officer, or with the county judge, in the case of county or precinct officer, a certificate duly signed and acknowledged by them, setting forth the cause of the vacancy, the name of the new nominee, the office for which he was nominated and when and how he was nominated. No executive committee shall ever have power of nomination, except where provided for by law. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 233.

Art. 13.57. Party name

No new political party shall assume the name of any pre-existing party; and the party name printed on the official ballot shall not consist of more than three (3) words. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 234.

Art. 13.58. National Convention

Any political party desiring to elect delegates to a national convention, shall hold a State convention at such hour and place as may be designated by the State Executive Committee of said party, on the fourth Tuesday in May, 1952, and every four (4) years thereafter. Said convention shall be composed of delegates duly elected by the voters of said political party in the several counties of this State at precinct conventions to be held on the first Saturday in May, 1952, and every four (4)

years thereafter. Said precinct convention shall be held between the hours of 10 o'clock a. m. and 8 o'clock p. m. at such hour and place as shall have been previously designated by the County Executive Committee, or upon its failure to act, by the county chairman. These precinct conventions shall elect one delegate from each precinct in each county for each twenty-five (25) votes, or major fraction thereof, cast for the party's candidate for Governor in such precinct at the last preceding general election to the County Conventions of the several counties which shall be held on the first Tuesday after the first Saturday in May, 1952, at such hour and place as shall have been previously designated by the County Executive Committee, or, upon its failure to act, by the County Chairman, and every four (4) years thereafter. The qualified voters of each voting precinct of the county shall assemble on the date named and shall be called to order by the precinct chairman who shall have been previously elected by the qualified voters of the precinct or if such elected chairman is unavailable, then the precinct chairman appointed by the County Executive Committee of the party, and who shall be a qualified voter of said election precinct, or in his absence by any qualified voter. Before transacting any business the precinct chairman shall cause to be made a list of all qualified voters present. The name of no person shall be entered upon said list nor shall he be permitted to vote, be present at, or to participate in the business of such convention until it is made to appear that he is a qualified voter in said precinct from a certified list of the qualified voters, the same as is required in conducting a general election. Any qualified voter, whose name appears on the certified list of qualified voters, shall be permitted to participate in and vote in said convention. Said convention shall elect from among those present and qualified a permanent chairman and such other officers as may be necessary to conduct its business. The permanent chairman of said convention shall possess all the power and authority that is given to election judges by the provisions of this Code. After the convention is organized, it shall elect its delegates to the County Convention and transact such other business as may properly come before it. The officers of the convention shall keep a written record of its proceedings, including a list of delegates elected to the County Convention which shall constitute the returns from said convention. The record, and a copy thereof, shall be signed officially, sealed up and safely transmitted by the permanent chairman of the precinct convention within three (3) days after the precinct convention to the County Clerk of the county, who shall affix his file mark thereto and who shall promptly deliver the original copy of such return to the Chairman of the County Executive Committee. The return filed with the County Clerk shall be open to public inspection during regular office hours. The chairman of the County Executive Committee shall deliver the lists of delegates named by the precinct conventions in the county to the County Convention and said lists shall constitute the temporary roll of those selected as delegates to the County convention, and only delegates on such temporary roll shall be permitted to vote in the temporary organization of said County Convention. The County Convention shall elect a permanent chairman and such other officers as may be necessary to conduct its business. After the County Convention is organized it shall elect one delegate to the State Convention for each three hundred votes, or major fraction thereof, cast for the party's candidate for Governor in such county at the last preceding general election and transact such other business as may properly come before it. The permanent chairman of the county party convention shall make out a certified list of the delegates chosen and a copy thereof, together with copies of all resolutions and duplicates thereof adopted by the County Convention

and shall sign the same, the Secretary of such convention attesting his signature, and within five (5) days after the County Convention shall forward such certified list and copy thereof, together with resolutions and duplicates of each, by sealed registered letter to the Secretary of State, who shall affix his file mark thereon and who shall subsequently transmit the originals of each thereof to the Chairman of the State Executive Committee prior to the State Convention; who shall deliver the same to the State Convention, and the lists of delegates from each county shall constitute the temporary roll of those selected as delegates to the State Convention, and only delegates on such temporary roll shall be permitted to vote in the temporary organization of the State Convention. No person shall be permitted to hold a proxy or vote a proxy in the State Convention from more than one county.

Ten (10) days prior to the holding of the precinct and county conventions the county chairman shall post notice on the bulletin board of the county courthouse and file copy of same with the County Clerk stating the exact hour and place that the respective conventions shall be held on the days named in this Article. Further, the State Executive Committee shall notify the Secretary of State as to the hour and place at which the State Convention will be held and shall also mail a copy of such notice to each county chairman in the State at least ten (10) days prior to the date of the State Convention. Should the county chairman fail to file with the County Clerk a statement showing the hour and place of holding the precinct and county conventions, then any member of the County Executive Committee, may file with the County Clerk a notice of the hour and place of the holding of such precinct and county conventions, and such shall constitute the legal hour and place therefor. Should more than one such member of the County Executive Committee file such notice, then the first filing in point of time shall prevail. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 235.

Art. 13.59. Nominations for two (2) or more state offices of same classification

That whenever nominations for two (2) or more state offices of the same classification are to be made at the same primary or general election, each such office shall be separately designated on the official ballot used at such primary or general election by numbering the places as "No. 1," "No. 2," "No. 3," etc., and the candidates for each place shall be separately nominated. Such designations shall be made by the State Committee of the political party holding the election. Each candidate for nomination for such offices shall designate in the announcement of his candidacy, and in his request to have his name placed on the official primary ballot, the number of the nomination or place for which he desires to become a candidate, and the names of all candidates so requesting shall have their names printed beneath the title of the office and the number so designated. No person shall be a candidate for more than one of such places. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 236.

CHAPTER FOURTEEN

LIMITING CAMPAIGN EXPENDITURES

Art.

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Article 14.01. Definitions

The word "candidate" shall mean any person who has announced to any other person or to the public that he is a candidate for the nomination for or the election to any office which the laws of this State require to be determined by an election. The words "county office" shall mean any office to be filled by the choice of the voters residing in only one (1) county or less than one (1) county. The words "district office" shall mean any office to be filled by the choice of the voters residing in more than one (1) county. The words "state office" shall mean any office to be filled by the choice of voters of the entire State. The above classification of offices shall include all offices of the United States Government filled by elections. The term "campaign expenditure" as hereinafter used shall include any gift, loan, or payment of money or other valuable thing, or promise to give, lend, or pay money or other valuable thing, for the purpose of furthering or opposing the candidacy of any person for nomination for or election to any county, district, or state office. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 237.

Art. 14.02. Appointing Manager

Every candidate for nomination for or election to a State or district office may designate a campaign manager by written appointment filed with the Secretary of State, and may also designate an assistant campaign manager for each county affected by such candidacy by written appointment to be filed with the county clerk of said county. Every candidate for nomination for or election to a county office may designate a campaign manager by written appointment to be filed with the county clerk of such county. Any campaign manager or assistant campaign manager designated as provided in this Section may be removed by the candidate at any time by the written appointment of a successor filed in the manner provided for original designations. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 238.

Art. 14.03. Purposes of expenditures

No candidate, campaign manager, nor assistant campaign manager shall himself or by any other person, directly or indirectly, make or authorize any other person to make any campaign expenditure except for the following purposes only, to wit:

a. For the traveling expenses of the candidate, his campaign manager, or assistant campaign managers, or of a secretary for such candidate.

b. The payment of fees or charges for placing the name of the candidate upon the primary ballot, and for holding and making returns of the election.

c. The hire of clerks and stenographers and the cost of clerical and stenographic work.

d. Telegraph and telephone tolls, postage, freight and express charges.

e. Printing and stationery.

f. Procuring and formulating lists of voters, making canvasses of voters, and employing watchers and supervisors at the polls.

g. Office rent.

h. Newspaper and other advertising and publicity.

i. Advertising and holding political meetings, demonstrations, and conventions, and payment of speakers and musicians therefor.

j. Employing as counsel attorneys licensed in this State and expenses of election contests.

Any campaign expenditure by any candidate, campaign manager, or assistant campaign manager, except for the above purposes is expressly prohibited and declared to be unlawful. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 239.

Art. 14.04. Campaign Contributions

(a) It shall be lawful for any person other than a corporation to make campaign contributions to be paid directly to a candidate, his campaign manager, or assistant campaign manager, such contributions to be used for the purposes set forth in the preceding Section.

(b) It shall be lawful for any person to expend a sum which shall not in the aggregate exceed Twenty-five Dollars (\$25) for postage, or telegraph or telephone tolls, or for costs of any correspondence, or any other lawful purpose out of his own funds to aid or defeat any candidate, where the sum is not to be repaid to him.

(c) It shall be lawful for any person to contribute his own personal services and personal traveling expenses to aid or defeat any candidate.

(d) Except as expressly permitted by Paragraphs (a), (b), and (c) of this Section it shall be unlawful for any person, other than a candidate, his campaign manager, or his assistant campaign manager, to make or authorize any campaign expenditure. Except as provided in Paragraphs (a), (b), and (c) of this Section campaign expenditures must be made by the candidate, his campaign manager, or his assistant campaign manager. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 240.

Art. 14.05. Civil Remedy

(a) Any candidate, campaign manager, assistant campaign manager, or other person, who makes an unlawful campaign expenditure in support of a candidate shall be civilly liable to each opposing candidate whose name shall appear on the ballot in the next election after such expenditure is made for double the amount or value of such unlawful campaign expenditure and reasonable attorneys fees for collecting same.

(b) Any candidate, campaign manager, assistant campaign manager, or other person, who makes an unlawful campaign expenditure not expressly supporting any candidate but opposing a particular candidate or candidates shall be civilly liable to each of such opposed candidates for double the amount or value of such unlawful campaign expenditure

and reasonable attorneys fees for collecting same. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 241.

Art. 14.06. Criminal Penalty

Any candidate, campaign manager, assistant campaign manager, or other person, who makes an unlawful campaign expenditure in violation of the foregoing Sections of this Chapter shall be fined not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or be imprisoned in the penitentiary not less than one (1) nor more than five (5) years, or be both so fined and imprisoned. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 242.

Art. 14.07. Corporations not to contribute

(a) No corporation shall give, lend or pay any money or other thing of value, or promise to give, lend, or pay any money or other thing of value, directly or indirectly, to any candidate, campaign manager, assistant campaign manager, or any other person, for the purpose of aiding or defeating the election of any candidate or of aiding or defeating the approval of any political measure submitted to a vote of the people of this State or any subdivision thereof.

(b) Any corporation making or promising a gift, loan, or payment to any candidate, campaign manager, assistant campaign manager, or other person in violation of Paragraph (a) of this Section shall be civilly liable for double the amount or value of such loan or gift, promised or made, to each opponent of the candidate favored by such gift, loan, or payment, or to the particular candidate or candidates opposed by such gift, loan, or payment.

(c) Every officer or director of any corporation who shall consent to any such unlawful gift, loan, or payment, or such unlawful promise to give, lend, or pay, by the corporation shall be fined not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or be imprisoned not less than one (1) nor more than five (5) years, or be both so fined and imprisoned.

(d) Any candidate, campaign manager, or assistant campaign manager who knowingly receives such unlawful gift, loan, or payment from a corporation shall be fined not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or be imprisoned not less than one (1) nor more than five (5) years, or be both so fined and imprisoned.

(e) If any officer, agent, or employee of any bona fide association, incorporated or unincorporated, organized for and actively engaged for one (1) year prior to such contribution in purely religious, charitable or eleemosynary activities, or local, district or statewide 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 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, shall use or permit the use of any stock, money, assets or other property contributed to such organizations by any corporations, to further the cause of any political party, or to aid in the election or defeat of any candidate for office, or to pay any part of the expenses of any candidate for office, or part of the expenses of any political campaign, or political headquarters or to aid in the success or defeat of any political question to be

voted on by the qualified voters of the State, or any subdivision thereof, such officer, agent or employee, shall be fined not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or be imprisoned in the penitentiary not less than one (1) nor more than five (5) years, or be both so fined and imprisoned. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 243.

Art. 14.08. Records and Sworn Statement

(a) Each candidate is hereby required to keep an accurate record of all gifts or loans of money or other valuable things received by him, his campaign manager, or assistant campaign managers, and of all gifts, loans, and payments made, and of all debts incurred by him, his campaign manager or assistant campaign managers on account of his candidacy, which record shall contain all information hereinafter required to be reported by such candidate.

(b) Each candidate is hereby required to file sworn statements of all gifts and loans previously received and of all gifts, loans, and payments made and all debts incurred. Such sworn statements shall and must be filed at intervals of twenty (20) days beginning sixty (60) days next preceding the date of any election in which the candidate's name appears on the ballot, provided, however, that a sworn statement shall be filed not more than five (5) nor less than two (2) days prior to the date of the election in which the candidate's name appears on the ballot. Provided, further, that there shall be filed a sworn statement not more than twenty (20) nor less than fifteen (15) days next preceding the second or run-off primary election and there shall be filed a second sworn statement not more than five (5) nor less than two (2) days next preceding the second or run-off primary election in which the candidate's name appears on the ballot. Such sworn statement shall also include an estimate of the additional amount that the candidate will expend or become liable for in behalf of his candidacy from the time of the filing of the sworn statement to and including the day of the election.

(c) Not less than ten (10) days after the election each candidate must file a sworn supplemental statement of all gifts and loans received prior to the election and of all gifts, loans, and payments made and debts incurred prior to the election not specifically included in the sworn statement filed prior to the election.

(d) Any such statement filed by a candidate in a second primary election must include all items not reported in the statement filed for the first primary election. Any such statement filed by a candidate in a special or general election must include all items not reported in statements filed in primary elections preceding such special or general election. However, each statement filed must include a statement of the total amount of all previous gifts and loans received and all gifts, loans, and payments made and debts incurred in connection with the candidacy of the candidate filing such statement.

(e) Each such sworn statement shall include the names and addresses of all persons from whom money or any other thing of value has been received or borrowed by such candidate, his campaign manager, or assistant campaign managers, and the date and amount of such gift or loan. Such statement shall also include the dates and amounts of all gifts, loans, and payments made or debts incurred by such candidate, his campaign manager, or assistant campaign managers on account of his candidacy; the names and addresses of all persons to whom any gift, loan, or payment of more than Ten Dollars (\$10) was made or debt of more than Ten Dollars (\$10) is owed; and the purpose of such gifts, loans, payments, and debts.

(f) Such statement shall be accompanied by the following affidavit by the candidate:

"I do solemnly swear that the foregoing statement, filed herewith, is in all things true and correct, and fully shows all gifts and loans of money or other things of value received by me, my campaign manager, or my assistant campaign managers not previously reported in a sworn statement heretofore filed, and all persons making such gifts and loans; and such statement fully shows all previously unreported gifts, loans, and payments made and all debts incurred by me, my campaign manager, or assistant campaign managers or by any other person with my knowledge and consent, in behalf of my candidacy for the nomination for (or election to) the office of _____ before the (primary, special, or general) election on the date of _____, and that I have neither directly nor indirectly arranged or assented to, encouraged or connived at receiving, borrowing, giving, or lending any money or any thing of value other than as shown in said statement, and that I have not, so far as I know, violated any provision of the laws of Texas governing elections in letter or in spirit."

Such statement and oath shall be filed by each candidate for a county office with the county clerk of the county and for a district or state office with the Secretary of State.

(g) If any candidate fails to file such sworn statement at the time provided herein or swears falsely therein, he shall be subject upon conviction to a fine not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or be imprisoned in the penitentiary not less than one (1) nor more than five (5) years, or be both so fined and imprisoned.

(h) Any candidate failing to file such sworn statement at the time provided or swearing falsely therein shall forfeit his right to have his name placed upon the ballot at any subsequent primary, special, or general election.

(i) Any candidate who fails to report in whole or in part any gift or loan received or any gift, loan, or payment made, or debt incurred, as provided in the foregoing paragraphs of this Section shall be liable for double the amount or value of such unreported gift, loan, payment, or debt, or unreported portion thereof, to each opposing candidate in any election prior to which same should have been reported. Each of such opposing candidates shall also recover reasonable attorneys' fees for collecting the above liquidated damages.

(j) It shall be the duty of any person making one or more contributions or loans aggregating more than One Hundred Dollars (\$100) to any candidate for the purpose of furthering his candidacy to ascertain whether the candidate properly reports such contributions or loans, as provided in this Section. If such contribution or loan is not reported, it shall be the duty of the person making such contribution or loan to report the same under oath to the proper official as provided in this Section. If such contribution or loan is not reported by either the candidate or the person making same, the latter shall be civilly liable to each opponent of the favored candidate for double the amount of such unreported contribution or loan, or part thereof unreported, and for reasonable attorney's fees for collecting the same. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 244.

Art. 14.09. Leave name off ticket

Any candidate who shall knowingly permit or assent to the violation of any provision of this Chapter by any campaign manager or assistant campaign manager, or other person, shall thereby forfeit his right to have

his name placed upon the primary ballot, or if nominated in the primary election, to have his name placed on the official ballot at the general election. Provided, no candidate in the general election shall forfeit the right to have his name printed on the ballot for such election if the Constitution of this State prescribes the qualifications of the holder of the office sought by the candidate.

Proceedings by quo warranto to enforce the provisions of this Section, or to determine the right of any candidate alleged to have violated any provision of this Chapter, to have his name placed on the primary ballot, or the right of any nominee alleged to have violated any provision of this Chapter to have his name placed upon the official ballot for the general election, may be instituted at the suit of any citizen in the district court of any county, the citizens of which are entitled to vote for or against any candidate who may be charged in such proceedings with any such violation. All such proceedings so instituted shall be advanced, and summarily heard and disposed of by both the trial and appellate courts. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 245.

Art. 14.10. Political advertising

Any printed matter, or anything published in a newspaper, or broadcast over a radio or television station, or displayed on a billboard in favor of or in opposition to any candidate, in consideration of the receipt or promise of money or thing of value, shall for the purposes of this Section be considered as political advertising.

No political advertising shall be accepted for printing, publication or broadcasting unless it is signed by the person paying for same.

Such advertising, when published, printed, or broadcast, shall be labeled as political advertising.

Any candidate, advertiser, or advertising media wilfully violating the provisions of this Section shall upon conviction be fined not more than One Hundred Dollars (\$100). Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 246.

Art. 14.11. Repeal of conflicting laws

All laws and parts of laws in conflict herewith are repealed in so far as such laws are in actual conflict with the provisions of this code, and in case of such conflict the provisions of this code shall control and be effective. However, nothing in this Act shall be construed to nullify or repeal any Act of the Legislature passed at the Regular Session of the Fifty-second Legislature. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 247.

Art. 14.12. Partial unconstitutionality and repeals

If any part of this code is held unconstitutional, it shall not void or affect the application of any part of this code which can operate independently of the unconstitutional provision.

Nothing in this Act shall in anywise alter, amend or repeal House Bill No. 43, Acts, Regular Session, Fifty-second Legislature.¹ Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 248.

¹ Vernon's Ann.Civ.St. art. 3158a.

² Vernon's Ann.Civ.St. arts. 2923-3173.

Sec. 2. That all elections and all laws relating to suffrage and parties, as found in Title 50 of the Revised Civil Statutes of Texas of 1925², and all amendments thereto, be and the same are hereby repealed, provided, however, that nothing in this Act shall be construed as repealing or in any way affecting the legality of any penal provision of the existing law; and this Act shall be construed to be an independent Act of the Legislature enacted under the caption hereof, and the Sections contained in this Act, as revised, rewritten, changed, combined and codified shall be the governing law of this State.

This Act shall take effect and be in force from and after twelve o'clock, Meridian, of the first day of January, Anno Domini, 1952.

Sec. 3. That the importance of this Act, and the near breakdown of the election machinery of the State, and the fact that it is impossible to read this Act on any one day or on three several days, or prepare it for printing in that length of time, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended in each House and the same is hereby suspended.

Passed the House, May 8, 1951: Yeas 112, Nays 13, 1 present not voting; House concurred in Senate amendments, May 30, 1951: Yeas 79, Nays 51, 1 present not voting; passed the Senate, with amendments, May 28, 1951, by a viva voce vote.

Approved June 28, 1951.

Effective Jan. 1, 1952, 12 M.

FORMER ARTICLES VERNON'S ANNOTATED CIVIL STATUTES

TITLE 50—ELECTIONS

Arts. 2923–2942a. Repealed. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 248, eff. Jan. 1, 1952.

Art. 2943. 2925–26 Pay of judges and clerks.

The pay of judges and clerks of general and special elections shall be determined by the Commissioners Court of the County where such services are rendered; but same shall not exceed Eight (\$8.00) Dollars a day for each judge or clerk, nor exceed One (\$1.00) Dollar per hour each for any time in excess of a day's work as herein defined. The judge who delivers the returns of election immediately after the votes have been counted shall be paid Two (\$2.00) Dollars for that service; provided also, he shall make returns of all election supplies not used when he makes return of the election. Ten (10) working hours shall be considered a day within the meaning of this Article. The compensation of judges and clerks of general and special elections shall be paid by the County Treasurer of the county where such services are rendered upon order of the Commissioners. As amended Acts 1945, 49th Leg., p. 128, ch. 87, § 1; Acts 1951, 52nd Leg., p. 535, ch. 313, § 1.

See Election Code, art. 3.08

Arts. 2944–3026. Repealed. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 248, eff. Jan. 1, 1952.

Art. 3026a. Time for report by election judges; failure to make report

The presiding judges in the several election precincts in this State, in General and Special elections, shall forward the written returns of said election to the County Judge of their respective counties in this State within thirty-six (36) hours after all votes have been counted and tabulated, which said count and tabulation must be completed within twenty-four (24) hours after the closing of the polls; and said County Judges shall, within forty-eight (48) hours after the returns have been canvassed by the Commissioners Court, as provided by law, forward by mail to the Secretary of State complete returns of the General and Special elections in their respective counties. Provided that if such County Judge fails or neglects to make such report the County Clerk is hereby authorized to forward by mail to the Secretary of State complete returns of the General and Special elections in their respective counties, and provided further that if both the County Judge and the County Clerk shall neglect or fail to make such report it shall be the duty of the Secretary of State to request by mail, telephone or telegraph immediately such report, and in

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

case no report is had from such county within ten (10) days from the date of the election, it shall be the duty of the Secretary of State to send a special messenger to such county to obtain from the proper officials a complete return of such election and the expense of such messenger shall be paid from the general fund of such county. Provided this section shall in nowise be construed as repealing Article 3036, Revised Civil Statutes, 1925. As amended Acts 1949, 51st Leg., p. 688, ch. 361, § 3; Acts 1951, 52nd Leg., p. 575, ch. 333, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

See Election Code, art. 8.30

Arts. 3027-3116f. Repealed. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 248, eff. Jan. 1, 1952.

Art. 3116g. Senatorial districts composed of two counties; filing fees

In all senatorial districts in this State composed of two (2) counties, no person who is a candidate in a primary election for nomination for State Senator shall have his name placed on such primary ballot unless, and until, he shall have paid to the County Executive Committee of each county of the district a filing fee in the sum of One Hundred (\$100.00) Dollars as such candidate's part of the expenses for holding such primary election; and such candidate shall not be required to pay any other sums to any other person or committee in such counties to have his name placed on the primary election ballot as a candidate for nomination for such office. The term "primary election", as used in this Act, shall mean and include a first primary and a second or run-off primary, if such be necessary, and a candidate shall not be required to pay any additional sum, or sums, in the event of a second or run-off primary. Acts 1951, 52nd Leg., p. 562, ch. 327, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

See Election Code, art. 13.16

Section 2 of the act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act fixing the filing fees of candidates for nomination for State Senator in

certain senatorial districts; repealing all laws or parts of laws in conflict with the provisions of this Act; and declaring an emergency. Acts 1951, 52nd Leg., p. 562, ch. 327.

Arts. 3117-3154. Repealed. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 248, eff. Jan. 1, 1952.

Art. 3154(a). Meaning of "primary conventions" or "convention"; application of other statutes

The terms "primary conventions" or "convention" as used in Articles 3154 to 3158 (both inclusive), Revised Civil Statutes of Texas of 1925, shall have the same meaning as is given the terms "election" and "primary election" in Title 50, Revised Civil Statutes of 1925; and all organized political parties nominating or electing under convention procedure shall be subject to the jurisdiction of the courts of this State for non-compliance with, or violation of relevant Civil and Penal Statutes governing general, special and primary elections and conventions. Acts 1951, 52nd Leg., p. 71, ch. 44, § 4.

Effective 90 days after June 8, 1951, date of adjournment.

See Election Code, art. 13.34

Arts. 3155-3158. Repealed. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 248, eff. Jan. 1, 1952.

Art. 3158a. Precinct and county conventions

Section 1. The provisions of this Act shall apply only to political parties whose nominees for Governor in the last preceding general election received as many as ten thousand (10,000) votes and less than two hundred thousand (200,000) votes.

Sec. 2. The County Executive Committee of any such political party, at its meeting on the second Monday in June of each general election year, and likewise at a meeting held at least twelve (12) days before the first Saturday in May of each Presidential election year, shall determine the hour and places of holding precinct conventions in such county as well as the hour and place of holding the county convention. Should the County Executive Committee fail to do so, it shall be the duty of the county chairman to make such determination. It shall be the duty of the chairman of such committee to post, or cause to be posted at the courthouse door of such county, at least ten (10) days prior to such precinct conventions, a statement showing the hour and places where such precinct conventions shall be held, as well as the hour and place for holding the county convention. At the same time such chairman shall file with the county clerk as a public record, a copy of such notice giving the hour and places for holding such precinct and county conventions. The fee for filing such notice shall be One Dollar (\$1). Such notice filed with the county clerk shall be open to inspection by the public during office hours of the county clerk. Failure of the county chairman to post or to file the above notice as provided above, shall make such chairman ineligible to be a delegate or alternate delegate, or to hold or vote a proxy at the next succeeding county, district and State conventions of such party.

Should the county chairman fail to file with the county clerk a statement showing the hour and place of holding the precinct conventions in any precinct in such county, then any qualified voter, resident in such precinct, may file with the county clerk a notice of the hour and place of the holding of such precinct convention, and such shall constitute the legal hour and place therefor. Should more than one (1) such qualified voter file such notice then the first filing in point of time shall prevail.

A certificate of the county clerk as to the filing or nonfiling of any such notice provided in this section shall be conclusive.

The county chairman shall not appoint any precinct chairman during that period of time subsequent to the posting and filing of notices for the precinct conventions, and prior to the time of holding such precinct conventions.

Nothing herein, however, shall prevent qualified voters of a precinct having no chairman from meeting, electing their own chairman and holding a precinct convention of such party; but if an hour and place therefor has been designated in either of the methods provided above, then the convention shall be held at such hour and place.

The county convention of any such party shall be held in a public place at the county seat.

Sec. 3. In State conventions of any such political party (other than conventions held to select delegates to National conventions of such party) each county shall be entitled to one (1) vote for each three hundred (300) votes, or major fraction thereof, cast for its candidate for Governor at the last preceding general election; and in conventions held to select delegates to National conventions of such party, each county

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

shall be allowed one (1) vote for each three hundred (300) votes or major fraction thereof cast for its candidate for President at the last preceding presidential general election. In case, at any such election, there were cast for such candidate for Governor or President, respectively, less than three hundred (300) votes in any county, then such county shall have one (1) vote. Acts 1951, 52nd Leg., p. 71, ch. 44.

Effective 90 days after June 8, 1951, date of adjournment.

See Election Code, Art. 13.34

Section 5 repealed conflicting laws and parts of laws to the extent of the conflict only. Section 6 reads as follows:

"If any section, subsection, sentence, clause, or phrase of this Act is held to be invalid or unconstitutional for any reason, such decision shall not affect the valid-

ity of the remaining portions 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 of the sections, subsections, sentences, clauses, or phrases should be declared unconstitutional or invalid."

Arts. 3159-3173. Repealed. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 248, eff. Jan. 1, 1952.

TITLE 51—ELEMOSYNARY INSTITUTIONS

CHAPTER ONE—GENERAL PROVISIONS

Art.

3183c. Money and property of inmates
[New].

Art. 3174a. Institutions to be known as Texas state hospitals and special schools

Name of State Tuberculosis Sanatorium changed to McKnight State Sanatorium, see art. 3238b.

Waco State Home, transfer of management, government and control to State Department of Public Welfare, see art. 3255b.

Art. 3174b. Board for Texas State Hospitals and special schools

Central education agency, jurisdiction and control of State School for the Deaf, see art. 2654—1.

Name of State Tuberculosis Sanatorium changed to McKnight State Sanatorium, see art. 3238b.

Roads within institutions, hospitals and special schools, construction, etc., by State Highway Department, see art. 6674t.

Waco State Home, transfer of management, government and control to State Department of Public Welfare, see art. 3255b.

Art. 3177. Functions and duties of superintendent

The business manager of each State hospital and/or special school, under the control and management of the Board for Texas State Hospitals and Special Schools, shall be the chief disbursing officer of the institution. He shall be directly responsible to the superintendent of the institution. Each superintendent shall admit the Executive Director and members of the Board into every part of the institution and exhibit to them, at their request, all books, papers, and accounts of the institution pertaining to its business, management, discipline, and government and shall furnish the Executive Director and the Board with copies, abstracts, and reports as they may require. As amended Acts 1951, 52nd Leg., p. 588, ch. 344, § 1.

Emergency. Effective June 2, 1951.

Section 2 of the amendatory act of 1951 repealed conflicting laws or parts of laws.

Control and management of state hospi-

tals and special schools, except as to purchases, transferred from Board of Control to Board for Texas State Hospitals and Special Schools, see art. 3174b.

Art. 3183c. Money and property of inmates

Section 1. The superintendent of any State institution under the jurisdiction of the Board for Texas State Hospitals and Special Schools may deposit any funds of inmates in his possession in any bank in the State, or in bonds or obligations of the United States of America or for the payment of which the faith and credit of the United States are pledged, and for the purposes of deposit or investment only, may mingle the funds of any inmate with the funds of other inmates. The superintendent may deposit the interest or increment accruing on such funds in a special fund, to be designated the "Benefit Fund," of which he shall be the trustee. He may expend the moneys in any such fund for the education or entertainment of the inmates of the institution, or for the actual expense of maintaining the fund at the institution.

Sec. 2. For the purposes of this Act the superintendent of each institution shall act as custodian of the inmates' personal funds on deposit with each particular institution. The business manager shall maintain records at all times of the amount of funds on deposit for each inmate.

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

All disbursements of personal funds and all disbursements out of the "Benefit Fund" shall be made upon the joint signature of the superintendent and business manager.

Sec. 3. Whenever any person confined in any State institution subject to the jurisdiction of the Board for Texas State Hospitals and Special Schools dies, escapes, or is discharged or paroled from such institution, and any personal funds or property of such person remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative, the superintendent shall hold and dispose of such funds or property as follows: (a) Funds: The superintendent shall hold the funds in the patients' personal deposit fund for a period of three (3) years. If, at the end of three (3) years, no demand has been made for the funds, the superintendent shall turn the said funds over to the State Treasurer. The State Treasurer shall hold the funds for a period of five (5) years and if, at the end of that five (5) year period, the funds have not been demanded by the owner or a legal representative, then the funds shall escheat to the State and shall become a part of the General Fund. (b) Miscellaneous Personal Property: The superintendent shall hold all other miscellaneous personal property for a period of three (3) years. At the end of that time, if there has been no demand by the owner of the property or his legal representative, the superintendent shall file with the county clerk of the county of commitment of said owner, all deeds, wills, contracts or assignments. The balance of the personal property shall be sold at auction and the funds turned over to the State Treasurer to be disposed of in the same manner as cash funds under the provisions above. If some of the property is not of a type to be filed with the county clerk and is not salable at public auction, then the superintendent of the hospital shall hold the same for a period of one more year and if at the expiration of that time no demand has been made by the owner or his legal representative, the property shall be destroyed. Before any funds are turned over to the State Treasurer, under subdivision (a), and before any papers are filed with the county clerk, and before any personal property is sold at auction or disposed of under subdivision (b) of this Section, notice of said intended disposition shall be posted at least ten (10) days prior to the disposition, in a public place at the institution where the disposition is to be made. A copy of such notice shall be mailed to the last known address of the owner of the property at least ten (10) days prior to the disposition of the property. Acts 1951, 52nd Leg., p. 393, ch. 251.

Emergency. Effective May 18, 1951.

Title of Act:

An Act providing for the deposit and investment of inmates funds, under the jurisdiction and control of superintendents of the various institutions under control of

the Board for Texas State Hospitals and Special Schools; providing for a procedure of disposition of such funds and/or property; and declaring an emergency. Acts 1951, 52nd Leg., p. 393, ch. 251.

CHAPTER TWO—STATE HOSPITALS

Art.

3196c. Alcoholics, treatment in state hospitals [New].

Art.

3196d. Return of nonresident inmates to state of their residence; reciprocal agreements [New].

Art. 3196a. Classes of patients admitted

Alcoholics, application of this article, see art. 3196c.

Art. 3196c. Alcoholics, treatment in state hospitals**Constitutional authority for law**

Section 1. This Act is adopted by virtue of the provisions of Section 42, Article 16, of the Constitution of the State of Texas.

Eligibility for admission

Sec. 2. Any person who has been a bona fide resident of the State of Texas for a continuous period of twelve (12) months immediately prior to making application for admittance to a State Hospital as herein provided, and who is suffering from the disease of alcoholism, and who is not at that time charged with any criminal offense, shall be eligible for admission into, and care and treatment in, any State Hospital authorized by law to care for and treat mentally ill persons, subject to the provisions of this Act.

Admission of alcoholics; certification; refusal of admittance

Sec. 3. If there be facilities available in any such hospital, it shall be the duty of the Superintendent thereof to admit into such hospital for care and treatment, any person suffering from the disease of alcoholism who voluntarily applies for such admission, and who is certified to said hospital by a reputable citizen of this State, who is a recovered alcoholic, and by a reputable practicing physician licensed to practice medicine in this State, each of whom shall, by written statement, certify that to the best of his knowledge and belief such applicant is an alcoholic and is in need of hospitalization and treatment; provided, however, that the Superintendent of such hospital may refuse admittance to any applicant who has been a patient receiving treatment solely for alcoholism in any such State Hospital and who has been released therefrom within twelve (12) months immediately preceding his application for admittance, if, in the opinion of the Superintendent, no useful purpose would be served by the admission of such applicant. Provided, however, no admissions shall be made under the provisions of this bill by any State Hospital which at the time of application of anyone under the provisions of this bill has a waiting list of mental patients committed to said State Hospital.

Period of detention and treatment; notice on release

Sec. 4. Any person admitted to a State Hospital under the provisions of this Act shall be cared for and treated, and shall be detained as a patient in such hospital for at least ten (10) days after his admittance, unless the Superintendent of such hospital determines that it is to the best interest of such patient that he be sooner released. No patient admitted to a State Hospital under the provisions of this Act shall be treated and kept in such hospital for a period in excess of ninety (90) days from the time of his admittance. Upon the release of any such patient from any such hospital, it shall be the duty of the Superintendent to give notice to the person, other than the licensed physician, who certified the patient for admittance. Any applicant who applies for admission to a State Hospital under the provisions of this Act shall be deemed to have voluntarily consented to his detention in said hospital for a period of ten (10) days and shall waive any right to be released from said hospital before the expiration of such period of time.

Payments for maintenance

Sec. 5. Any person admitted to a State Hospital under the provisions of this Act shall, if he has sufficient funds, be required to pay for his

maintenance at the same rate charged other patients for maintenance at such hospital, and all of the provisions of Chapter 152, Acts of the Regular Session of the 45th Legislature, 1937 (Article 3196a Vernon's Civil Statutes) shall be applicable to any person admitted to a State Hospital under the provisions of this Act. It is provided, however, that no person otherwise eligible for admittance to a State Hospital under the provisions of this Act shall be denied admittance thereto, and care and treatment therein, because of financial inability to pay for his maintenance.

Partial invalidity

Sec. 6. If any section, portion, clause, phrase or sentence in this Act be for any reason held invalid by any court, such holdings shall not in any manner affect the validity of any other portions hereof, and if all or any portion of this Act is held to be invalid as to any particular person or class of persons, such holdings shall not in any manner affect the validity of this Act as to other persons and classes of persons. Acts 1951, 52nd Leg., p. 691, ch. 398.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act providing for the treatment of alcoholics in certain State Hospitals; prescribing the method of admission, detention and release of such persons; providing for the payment for such treatment by such persons; making the provisions of Chapter 152, Acts of the Regular Session of the

45th Legislature, 1937, (Article 3196a, Vernon's Civil Statutes) applicable to such persons; providing that no person shall be denied admittance and treatment because of inability to pay therefor; providing a savings clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 691, ch. 398.

Art. 3196d. Return of nonresident inmates to state of their residence; reciprocal agreements

Section 1. The Board for Texas State Hospitals and Special Schools shall return all nonresident persons who are confined in, admitted, or committed to any State Hospital to the states in which they have legal residence. For the purpose of facilitating the return of such persons the Board for Texas State Hospitals and Special Schools may enter into reciprocal agreements with the proper boards, commissions, or officers of other states for the mutual exchange or return of such persons confined in, admitted, or committed to any State Hospital in one state whose legal residence is in the other, and it may in such reciprocal agreements vary the period of residence as defined in this Statute to meet the requirements or laws of other states. The Board may give written permission for the return of any resident of this State confined in a public institution in another state, corresponding to any State Hospital for the insane.

Sec. 2. In determining residence for purposes of transportation, a person who has lived continuously in this State for a period of one (1) year and who has not acquired a residence in another state by living continuously therein for at least one (1) year subsequent to his residence in this State shall be deemed to be a resident of this State. Time spent in a public institution or on parole therefrom shall not be counted in determining the matter of residence in this or another state.

Sec. 3. All expenses incurred in returning such persons to other states shall be paid by this State, the person or his relatives, but the expense of returning residents of this State shall be borne by the states making the returns.

The cost and expense incurred in effecting the transportation of such nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose, or, if necessary,

from the money appropriated for the care of students, or the insane or incompetent. Acts 1951, 52nd Leg., p. 856, ch. 481.

Emergency. Effective June 21, 1951.

Title of Act:

An Act providing for authorization for the Board for Texas State Hospitals and Special Schools to enter into reciprocal agreements with other states; providing

for a determination of residence; providing for the payment of the expense of return of nonresidents; and declaring an emergency. Acts 1951, 52nd Leg., p. 856, ch. 481.

CHAPTER THREE—OTHER INSTITUTIONS

Art.

McKNIGHT STATE SANATORIUM
3238b. Name.

3254d. East Texas Tuberculosis Hospital
[New].

3254d—1. Change of name [New].

SCHOOL FOR CEREBRAL
PALSIED [NEW]

WACO STATE HOME

Art.
3254c—1. Change of name [New].

3255b. Management, government and control [New].

McKNIGHT STATE SANATORIUM [NEW]

Art. 3238b. Name

From and after passage of this Act, the name of the State Tuberculosis Sanatorium, which is located in Sanatorium, Tom Green County, Texas, shall be and the same is hereby changed and shall hereafter be known and designated as the McKnight State Sanatorium. Acts 1951, 52nd Leg., p. 587, ch. 343, § 1.

Emergency. Effective June 2, 1951.

Title of Act:

An Act changing the name of the State Tuberculosis Sanatorium, so as to be here-

inafter known as the McKnight State Sanatorium; and declaring an emergency. Acts 1951, 52nd Leg., p. 587, ch. 343.

Arts. 3244, 3245, 3248

Name of Sanatorium changed to McKnight State Sanatorium, see art. 3238b.

STATE TUBERCULOSIS SANATORIUM FOR NEGROES

Art. 3254a. Sanatorium created and established

Former State Tuberculosis for Negroes at Kerrville, use as sanatorium for mentally ill tubercular patients, see art. 3254c—1.

SCHOOL FOR CEREBRAL PALSIED [NEW]

Art. 3254c—1. Change of name

From and after passage of this Act, the name of the Texas State School for Cerebral Palsied, which is located in Galveston, Galveston County, Texas, shall be and the same is hereby changed and shall hereafter be known and designated as the Moody State School for Cerebral Palsied Children. Acts 1951, 52nd Leg., p. 471, ch. 299, § 1.

Emergency. Effective May 22, 1951.

Title of Act:

An Act changing the name of the Texas State School for Cerebral Palsied, so as to be hereinafter known as the Moody

State School for Cerebral Palsied Children; and declaring an emergency. Acts 1951, 52nd Leg., p. 471, ch. 299.

Art. 3254d—1. Change of name

Section 1. The name of "East Texas State Tuberculosis Sanatorium" created by Senate Bill No. 296, Chapter 344, Acts of the 50th Legislature, 1947,¹ is hereby changed to East Texas Tuberculosis Hospital.

Sec. 2. All laws heretofore or hereafter enacted by the Legislature applicable or relating to "East Texas State Tuberculosis Sanatorium" shall hereafter be applicable and relate to East Texas Tuberculosis Hospital.

Sec. 3. All appropriations heretofore made and now effective and all appropriations hereafter made by the Legislature for the use and benefit of "East Texas State Tuberculosis Sanatorium" shall be available for the use and benefit of East Texas Tuberculosis Hospital.

Sec. 4. All contracts heretofore entered into in behalf of "East Texas State Tuberculosis Sanatorium" are hereby ratified, confirmed and validated for and in behalf of East Texas Tuberculosis Hospital. Acts 1951, 52nd Leg., p. 331, ch. 203.

¹ Articles 3254c, 3254d.

Section 5 of the Act provided that this Act shall take effect and be in force from and after June 1, 1951.

WACO STATE HOME**Art. 3255. Superintendent and officers**

Transfer of management, government and control to State Department of Public Welfare, see art. 3255b.

Art. 3255b. Management, government and control**Transfer of management, government and control to Department of Public Welfare**

Section 1. Effective the first day of the month after this Act becomes law, the management, government, and control of the Waco State Home, Waco, Texas, shall be and are hereby transferred from the Board of Texas State Hospitals and Special Schools to the State Department of Public Welfare and all other facilities hereafter established by the State for the care and education of dependent and neglected children shall be under the control and management of the State Department of Public Welfare.

The State Department of Public Welfare shall succeed to and be vested with all the rights, powers, duties, facilities, personnel, records, and appropriations now held and which will be appropriated for the biennium beginning September 1, 1951, by the Board for Texas State Hospitals and Special Schools for the care of dependent and neglected children now in, or who may hereafter be committed to the Waco State Home, Waco, Texas.

Transfer of personnel

Sec. 2. The personnel employed in the Waco State Home is hereby transferred to the State Department of Public Welfare.

Appointments, duties and compensation of personnel

Sec. 3. When it becomes necessary to appoint a Superintendent for the institution, the State Department of Public Welfare shall have the authority to make the appointment and upon the recommendation of the Superintendent shall appoint all key employees, as defined by the State Department of Public Welfare, and shall prescribe their duties and qualifi-

cations for employment and the Superintendent is authorized to employ the subordinate employees required at the institution. The salaries, compensations, and emoluments of the Superintendent and all employees shall be fixed by the State Department of Public Welfare within the limits of the appropriation as set by the Legislature.

Sec. 4. All personal property now in use by the Board for Texas State Hospitals and Special Schools for the administration of the institution named herein is hereby transferred to the State Department of Public Welfare.

School and training program

Sec. 5. The State Department of Public Welfare is hereby directed to set up a school and training program for the children in the institution named in this Act so as to enable the children to become self-supporting through training and education in accordance with the capability of the individual child. Such training program may be set up within the institution or it may require maintenance and support of the children in one of the State institutions of higher learning. The moneys appropriated for the maintenance and support of the institution may be used for this purpose in accordance with rules and regulations and limitations as prescribed by the State Department of Public Welfare.

Duties and responsibilities not limited

Sec. 6. Nothing in this Act shall be construed to delimit the responsibilities of the institution named herein for the care of the children entrusted to it as provided in the General Statutes creating the institution and as provided in subsequent amendments prescribing the duties and responsibilities of the institution for the care of such children.

Negotiations with United States Government; acquisition of lands and other property

Sec. 9. The State Department of Public Welfare is hereby authorized to negotiate for and to acquire from the United States Government or any agency thereof or from any source whatever by gift, purchase, or leasehold for and on behalf of the State of Texas for use in the State service and in the maintenance and expansion of the State institution for dependent and neglected children which now exists, or may hereafter be created, any lands, buildings, and facilities within the State of Texas and any personal properties wherever located and to take title thereto for and in the name of the State of Texas. Acts 1951, 52nd Leg., p. 860, ch. 485.

Effective 90 days after June 8, 1951, date of adjournment.

Section 7 of the Act of 1951 made an appropriation. Section 8 transferred any balances in funds previously appropriated section 10 repealed conflicting laws or parts of laws to the extent of the conflict only. Section 11 read as follows: "If any section,

subsection, paragraph, sentence, clause, phrase, or word in this Act or 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 it would have passed such remaining portions despite such invalidity."

Arts. 3256, 3259

Transfer of management, government and control to State Department of Public Welfare, see art. 3255b.

TITLE 54—ESTATES OF DECEDENTS

CHAPTER TWENTY-ONE—SALES

Art.
3582a. Unitary operation for production
oil, gas and other minerals
[New].

Art. 3582a. Unitary operation for production of oil, gas and other minerals

Authorization of agreements; provisions of agreement; application

Section 1. (a) Any county court of this state may authorize an administrator or executor under the control and jurisdiction of such court to commit royalty or other mineral interests in oil, gas, and other minerals or any one or more of them owned by the estate being administered to agreements that provide for the operation of areas as a unit for the exploration, development, and production of oil, gas, and other minerals or any one or more of them where the court finds that the unit to which the agreement relates will be operated in a manner to prevent the waste of oil, gas, or other mineral subject thereto, and it is to the best interest of the estate to execute the agreement.

(b) Any agreement authorized to be executed under the provisions of this Act may, among other things, provide: (1) that operations incident to the drilling of a well upon any portion of a unit shall be deemed for all purposes to be the conduct of such operations upon each separately-owned tract in the unit by the several owners thereof; (2) that any lease covering any part of the area committed to a unit shall continue in force as long as oil, gas, or other mineral subject to the agreement is produced in paying quantities from any part of the unit area; (3) that the production allocated by the agreement to each tract included in a unit shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon; and (4) that the royalties reserved on production from any tract or portion thereof included within the unit shall be paid only on that portion of the production allocated to the tract in accordance with the agreement.

(c) The administrator or executor shall file his sworn application with the county clerk of the county where such estate is being administered for authority to make, enter into, and execute the agreement, and the county judge, either in term time or vacation, shall hear the application and require proof as to the advisability of making and entering into the agreement, and, if he approves the same, he shall enter an order authorizing the administrator or executor to make, enter into, and execute the agreement, and the order shall contain a copy thereof.

Notice of application

Sec. 2. Previous notice of an application for authority to enter into any agreement authorized by the provisions of this Act shall be given by the administrator or executor for ten days prior to the time the county judge hears the application. Such notice shall be sufficient if it states: (a) the date on which the application was filed; (b) the date on which the application will be heard by the county judge; (c) a brief description of the interest of the estate which is to be committed to the agreement; and (d) that the application is one file in the office of the county clerk. The notice shall be given by publishing same in some newspaper

of general circulation published in the county where the probate proceedings are pending for one issue of the paper. The date of publication shall be the date the paper actually bears. If no such newspaper is published in the county where the notice is required to be given, then the notice may be given by posting the same at the court house door of such county, or at any other place in the court house provided for posting of notices or citations, at least ten days next preceding the date of the hearing, and the publishing or posting as herein provided may be shown by the return of the sheriff or constable, or by the affidavit of any credible person made on a written copy of the notice so published or posted, showing the fact of publishing or posting.

By whom notice given; fixing time for hearing

Sec. 3. No notice of such application shall be given by the county clerk, but notice must be given by the administrator or executor as herein provided, and, when the application is filed, the clerk shall immediately call the attention of the judge of the court in which the estate is pending to the filing of the application; and the judge shall designate a date to hear the application, which date shall not be within ten days succeeding the filing of the application, and such hearing may be continued from time to time until the judge is satisfied concerning the application.

Granting of application; bonus; bond

Sec. 4. After the hearing of the application and the granting of same by the court, the administrator or executor shall be fully authorized to make, enter into, and execute the agreement in accordance with the judgment of the court thereon. In the event the court considers the making of the agreement of sufficient benefit to the estate being administered, he may authorize execution thereof without requiring the payment of any cash consideration or bonus therefor, and shall so state in his order authorizing the execution thereof; and in that event, when the order has been made, the administrator or executor shall be fully authorized to make and enter into, and to execute and deliver, the authorized agreement, and it shall not be necessary for the court to make an order confirming the agreement. In the event the order of the court requires a cash bonus to be paid, the agreement shall not be valid until the administrator or executor files a good and sufficient bond in double the amount of the cash bonus that is provided to be paid for the execution of the agreement, which bond shall be approved by the county judge, filed with the county clerk, and recorded in the minutes of the court; provided, however, in the event the order of the court contains findings to the effect that the general bond of the administrator or executor is sufficient in amount to equal double the value of the personal property of the estate on hand, including the amount of such cash bonus, or in the event the executor is administering the estate without bond, no additional bond shall be required. When the order has been made and any bond that may be required hereunder has been executed and approved, the administrator or executor shall be fully authorized to make and enter into, and execute and deliver, the authorized agreement, and it shall not be necessary for the court to make any order confirming the agreement.

Force and effect of lease

Sec. 5. Any lease executed by an executor or administrator of an estate and committed to an agreement authorized by this Act shall be binding upon heirs, legatees, and distributees of the estate and on purchasers from the estate, and the partition and distribution of the estate shall not have the effect of terminating any such lease or agreement.

Independent executors

Sec. 6. No provision in this Act shall be construed as requiring approval by the county court of any agreement made by an independent executor acting free from the control of the county court.

Pooling agreements

Sec. 7. Nothing contained in this Act shall be construed as invalidating any provision now or hereafter included in any oil and gas or other mineral lease executed by an administrator or executor who is administering an estate under the control and jurisdiction of the county court pursuant to court order, which provision authorizes the lessee in the lease to pool the land or any portion thereof with other leases or lands.

Act cumulative

Sec. 8. The provisions of this Act are and shall be held and construed to be cumulative of all laws of this state on the subject treated of and embraced in this Act.

Partial unconstitutionality

Sec. 9. If any section, subdivision, paragraph, sentence, or clause of this Act be held to be unconstitutional, the remaining portions of this Act shall nevertheless be held valid and binding. Acts 1951, 52nd Leg., p. 62, ch. 37.

Emergency. Effective March 31, 1951.

TITLE 55—EVIDENCE

1. WITNESSES AND EVIDENCE

<p>Art. 3731a. Official written statements, certificates, records, returns, reports, and copies thereof [New].</p>	<p>Art. 3737e. Memorandum or record of act, event or condition; absence of memorandum or record as evidence [New].</p>
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1. WITNESSES AND EVIDENCE

Art. 3731a. Official written statements, certificates, records, returns, reports, and copies thereof

Domestic Records

Section 1. Any written statement, certificate, record, return or report made by an officer of this state or of any governmental subdivision thereof, or by his deputy or employee, in the performance of the functions of his office shall be, so far as relevant, admitted in the courts of this state as evidence of the matters stated therein, subject to the provisions in Section 3.

Federal, Out of State, and Foreign Records

Sec. 2. Any written statement, certificate, record, return or report made by an officer of the United States or of another state or nation, or of any governmental subdivision of any of the foregoing, or by his deputy or employee, in the performance of the functions of his office shall, so far as relevant, be admitted in the courts of this state as prima facie evidence of the matters stated therein, subject to the provisions in Section 3.

Notice to Adverse Party

Sec. 3. Such writing shall be admissible only if the party offering it has delivered a copy thereof, or so much of it as may relate to the controversy, to the adverse party a reasonable time before trial, unless in the opinion of the trial court the adverse party has not been unfairly surprised by the failure to deliver such copy.

Authentication of Copy

Sec. 4. Such writings may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy. Except in the case of a copy of an official writing from a public office of this state or a subdivision thereof, the attestation shall be accompanied with a certificate that the attesting officer has the legal custody of such writing. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent or by any officer in the foreign service of the United States, or by any officer of a United States military government, stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

Proof of Lack of Record

Sec. 5. A written statement signed by an officer having the custody of an official record, or by his deputy, that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry.

Other Proof

Sec. 6. This rule does not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law. Acts 1951, 52nd Leg., p. 830, ch. 471.

<p>Effective 90 days after June 8, 1951, date of adjournment.</p> <p>Title of Act: An Act providing for and regulating the admission as evidence into the courts of</p>	<p>the State of Texas of any official written statement, certificate, record, return, or report, or copies thereof; and declaring an emergency. Acts 1951, 52nd Leg., p. 830, ch. 471.</p>
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Art. 3737e. Memorandum or record of act, event or condition; absence of memorandum or record as evidence

Section 1. A memorandum or record of an act, event or condition shall, insofar as relevant, be competent evidence of the occurrence of the act or event or the existence of the condition if the judge finds that:

- (a) It was made in the regular course of business;
- (b) It was the regular course of that business for an employee or representative of such business with personal knowledge of such act, event or condition to make such memorandum or record or to transmit information thereof to be included in such memorandum or record;
- (c) It was made at or near the time of the act, event or condition or reasonably soon thereafter.

Sec. 2. The identity and mode of preparation of the memorandum or record in accordance with the provisions of paragraph one (1) may be proved by the testimony of the entrant, custodian or other qualified witness even though he may not have personal knowledge as to the various items or contents of such memorandum or record. Such lack of personal knowledge may be shown to affect the weight and credibility of the memorandum or record but shall not affect its admissibility.

Sec. 3. Evidence to the effect that the records of a business do not contain any memorandum or record of an alleged act, event or condition shall be competent to prove the non-occurrence of the act or event or the non-existence of the condition in that business if the judge finds that it was the regular course of that business to make such memoranda or records of all such acts, events or conditions at the time or within reasonable time thereafter and to preserve them.

Sec. 4. "Business" as used in this Act includes any and every kind of regular organized activity whether conducted for profit or not. Acts 1951, 52nd Leg., p. 345, ch. 321.

<p>Effective 90 days after June 8, 1951, date of adjournment.</p> <p>Section 5 of the Act of 1951 repealed all conflicting laws and parts of laws.</p>	<p>Title of Act: An Act providing for and regulating the admission as evidence of records kept in the regular course of business; and declaring an emergency. Acts 1951, 52nd Leg., p. 545, ch. 321.</p>
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TITLE 61—FEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

<p>Art. 3886g. Seventy second district; supplemental salary [New].</p> <p>3992j. Deputy sheriffs; increase of compensation [New].</p>	<p>Art. 3912e—4c. District, county and precinct officers in counties of 600,000 population [New].</p>
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Art. 3883. 3881 to 3883 Maximum fees

Justice of the peace in county containing main unit of Texas Prison System, see art. 3936d.

Art. 3886g. Seventy second district; supplemental salary

Section 1. The District Attorney of the 72nd Judicial District shall be compensated for his services by an annual salary in an amount not to exceed the salary paid the County Attorney of Lubbock County.

Sec. 2: The Commissioners Courts of the counties comprising the 72nd Judicial District are hereby authorized to pay the supplement to the salary paid the District Attorney by the State in such an amount that the total salary paid such District Attorney shall not exceed the maximum prescribed in Section 1 of this Act.

Sec. 3. The supplemental salary to be paid the District Attorney of the 72nd Judicial District by the Commissioners Courts of the counties comprising said district shall be paid on the basis of the total number of criminal causes filed in the respective counties during the year preceding the year for which the supplemental salary is to be fixed and paid. Acts 1951, 52nd Leg., p. 606, ch. 358.

Title of Act:

An Act fixing the salary of the District Attorney of the 72nd Judicial District of Texas; authorizing the Commissioners Courts of the counties comprising the 72nd

Judicial District to supplement the salary of the District Attorney and providing the method of supplementation; and declaring an emergency. Acts 1951, 52nd Leg., p. 606, ch. 358.

Art. 3888. 2765—3886 County judge acting as Ex-officio County Superintendent; Assistant Superintendent

In a county where the County Judge acts as Superintendent of Public Instruction, he shall receive not more than Twenty-six Hundred (\$2600.00) Dollars a year, as the County Board of School Trustees of the respective counties may provide. In such a county an Ex-officio Assistant Superintendent of Public Instruction shall receive not more than Twenty-six Hundred (\$2600.00) Dollars a year, as the County Board of School Trustees of the respective counties may provide.

The County Judge while acting as Ex-officio County Superintendent of Public Instruction, for office and traveling expenses may receive an amount not to exceed One Thousand Fifty (\$1,050.00) Dollars a year, as the County Board of School Trustees of the respective counties may provide, from county funds. The above amounts shall be paid in the manner specified in Chapter 49, Acts of the 41st Legislature, Fourth Called Session,¹ and in Chapter 175, Acts of the 42nd Legislature, Regular Session.² As amended Acts 1951, 52nd Leg., p. 329, ch. 200, § 1.

¹ Article 2700d—1.

² Article 2827a.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the amendatory Act of 1951, provided that this Act shall become op-

erative on the first day of the month immediately succeeding the effective date hereof.

Art. 3902j. Deputy sheriffs; increase of compensation

Section 1. The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputy sheriffs justify the increase, to enter an order increasing the compensation of such deputy sheriff in an additional amount not to exceed thirty-five (35%) per cent of the maximum sum allowed under the law at the present time.

Sec. 2. The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of deputy sheriffs.

Sec. 3. If any section, subsection, paragraph, or portion of this Act is held invalid, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity. Acts 1951, 52nd Leg., p. 694, ch. 401.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act allowing additional compensation for deputy sheriffs; providing that this

Act shall be cumulative of other laws pertaining to such compensation; providing that this Act shall be severable; and declaring an emergency. Acts 1951, 52nd Leg., p. 694, ch. 401.

Art. 3912e—4c. District, county and precinct officers in counties of 600,000 population

Section 1. In all Counties in this State having a population of six hundred thousand (600,000) or more according to the last preceding Federal Census the Commissioners Court shall fix the salaries of the County Judge, Sheriff, District or Criminal District Attorney, Tax Assessor-Collector, District Clerk, County Clerk at not less than Nine Thousand, Nine Hundred Dollars (\$9,900) nor more than Ten Thousand, Eight Hundred Dollars (\$10,800) per annum; the Judges of the County Courts at Law, the Judges of the County Criminal Courts and the Judge of the County Probate Court at not less than Eight Thousand, Two Hundred Dollars (\$8,200) nor more than Nine Thousand, Six Hundred Dollars (\$9,600) per annum; the Justices of the Peace and Constables not to exceed Eight Thousand, Two Hundred Dollars (\$8,200) per annum; provided however that the Justices of the Peace and Constables whose precincts lie wholly or in part in cities having a population of four hundred and ninety-two thousand (492,000) or more shall receive not less than Seven Thousand, Five Hundred Dollars (\$7,500) per annum.

Sec. 2. In all such Counties, the Judges of the several District and Criminal District Courts shall each receive from County funds for all judicial and administrative services required of them an annual salary or allowance of Five Thousand Dollars (\$5,000), to be paid by the Commissioners Court out of any funds available for that purpose, in twelve (12) equal monthly installments. The additional compensation provided to be paid to the District Judges shall be in lieu of all other compensation heretofore provided to be paid to such Judges out of County funds; but shall be in addition to the salary payable out of State funds in such Counties, provided however any amount paid by the State in excess of Seven Thousand Dollars (\$7,000) shall reduce the County's payment by the same amount, provided however that the salary of the Judges of the several District and Criminal District Courts of such Counties from both State and County funds shall not exceed Twelve Thousand Dollars (\$12,000) per annum.

Sec. 3. The Commissioners Court of such Counties shall fix the salaries of all Deputies, Clerks and all other employees including road and bridge employees. In fixing such salaries the Court shall take into con-

sideration the duties and responsibilities of said employees as well as the cost of living at all times.

Sec. 4. Said Commissioners Court is hereby authorized to allow such automobile expense to any officers or employee in the performance of their official duties, as they may deem necessary.

Sec. 5. This Act shall control in the Counties of the class to which it applies; but it shall not repeal any other laws regulating the payment of salaries of officers covered hereby except to the extent of conflict with such prior laws. Acts 1951, 52nd Leg., p. 689, ch. 396.

Emergency. Effective June 4, 1951.

Title of Act:

An Act to allow the Commissioners Courts in Counties having a population of six hundred thousand (600,000) or more according to the last preceding Federal Census, to fix the salaries of the District County, and Precinct Officers, and all deputies and employees of such Counties; to pro-

vide for automobile allowance for certain officers and employees; providing for additional compensation from County funds for each of the District Judges of such Counties; repealing all laws in conflict herewith; and declaring an emergency. Acts 1951, 52nd Leg., p. 689, ch. 396.

CHAPTER TWO—ENUMERATION

Art.	Art.
3921a. Disposition of fees and revenues collected by Banking Department [New].	8936i. Justices of the peace in counties of 30,000 containing city of 16,000 [New].
3936g—1. Justice of the peace and constables; counties with nine district courts and five county courts; automobile allowance [New].	8943d. Counties with population of 600,000 or more; county treasurer's compensation [New].
	3943e. Salary of county treasurer [New].

Art. 3920. Repealed. Acts 1951, 52nd Leg., p. 868, ch. 491, § 4, eff. Sept. 7, 1951

Art. 3921. Banking Commissioner

The Banking Commissioner shall charge and receive the following fees:

For making an investigation of an application for the organization of a State Bank, not to exceed Fifty Dollars (\$50).

For each charter, amendment or supplement thereto, of a bank or bank and trust company, a fee of Fifty Dollars (\$50) shall be paid when said charter is filed, and if the authorized capital stock of such corporation exceeds Ten Thousand Dollars (\$10,000), it shall be required to pay an additional fee of Ten Dollars (\$10) for each additional Ten Thousand Dollars (\$10,000) of its authorized capital stock or fractional part thereof after the first, provided such fee shall not exceed Twenty-five Hundred Dollars (\$2500). As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 7.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 3921a. Disposition of fees and revenues collected by Banking Department

Notwithstanding anything to the contrary contained in any other law of this State, all fees, penalties and other revenues which are collected by the Banking Department of Texas shall be retained and held by said Department, and no part of such fees, penalties and other revenues shall ever be paid into the General Revenue Fund of this State. Acts 1951, 52nd Leg., p. 233, ch. 139, § 8.

Art. 3936g—1. Justices of the peace and constable; counties with nine district courts and five county courts; automobile allowance

In all counties in the State of Texas having at least nine (9) district courts, at least two (2) of which are criminal district courts, and at least five (5) county courts, at least two (2) of which are county courts-at-law and at least two (2) of which are county criminal courts, the Commissioners Court of such county shall allow the Justices of the Peace and Constables of such counties, whose precincts lie wholly or in part in cities having a population of more than four hundred and thirty-two thousand (432,000) inhabitants in such counties, according to the last preceding Federal Census, and all Investigators for the District Attorney in such counties, automobile expense allowance an amount to be determined by the Commissioners Court in each of said counties, payable each month out of the General Fund of the county. Acts 1951, 52nd Leg., p. 239, ch. 140, § 1.

Emergency. Effective May 7, 1951.

Section 2 of the Act of 1951 repealed all conflicting laws and parts of laws.

Title of Act:

An Act providing for automobile expense allowance for certain Justices of the Peace,

Constables, and Investigators for the District Attorney in certain Counties; repealing all laws in conflict herewith; and declaring an emergency. Acts 1951, 52nd Leg., p. 239, ch. 140.

Art. 3936h. Salaries of justices of the peace in cities of 432,000 population

In all counties of this State in which there is situated a city having a population in excess of four hundred and thirty-two thousand (432,000) inhabitants, according to the last preceding Federal Census, and in which the justices of the peace and constables are compensated on a salary basis, the Commissioners Courts of such counties shall fix the salaries of the justices of the peace and constables in justice precincts which are situated in or include a city or a part thereof, having a population in excess of four hundred and thirty-two thousand (432,000) inhabitants according to the last preceding Federal Census, at not less than Four Thousand, Five Hundred Dollars (\$4,500) and not more than Seven Thousand, Five Hundred Dollars (\$7,500) per annum. Said salaries shall be paid in twelve (12) monthly installments, provided, however, that the salaries of the justices of the peace and constables from the effective date of this Act for the remainder of the year 1951 shall be paid in the same ratio basis as the remainder of the year bears to the total annual salaries provided herein, and shall be paid in monthly installments. As amended Acts 1951, 52nd Leg., p. 354, ch. 222, § 1.

Emergency. Effective May 17, 1951.

Section 2 of the Acts of 1949 and 1951 provided that in the event that any section, subsection, paragraph, sentence, clause, phrase, or word of this Act shall be held invalid or inoperative, such holding shall not affect the validity of the re-

maining portions of this Act, and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity.

Section 3 of both Acts repealed all conflicting laws and parts of laws.

Art. 3936i. Justices of the peace in counties of 30,000 containing city of 16,000

Section 1. In all counties having a population of not less than thirty thousand (30,000) according to the last preceding Federal Census, and having an assessed valuation for ad valorem tax purposes for the preceding year of not less than Forty Million Dollars (\$40,000,000) accord-

ing to the tax rolls of said counties, where it shall have been determined that Justices of the Peace shall be compensated on a salary basis, and where there is only one (1) Justice of the Peace acting in any precinct in which there may be a city of sixteen thousand (16,000) or more inhabitants according to the last preceding Federal Census, the Commissioners Court of any such county is hereby authorized to increase the compensation of any such Justice of the Peace in an additional amount not to exceed fifty per cent (50%) of the sum allowed under the law for the fiscal year of 1950; and in any such county in which there may be a city of sixteen thousand (16,000) or more inhabitants according to the last preceding Federal Census, and where there is only one Justice of the Peace acting in such county, the Commissioners Court is hereby authorized to increase the compensation of such Justice of the Peace in an amount not to exceed sixty per cent (60%) of said sum allowed under the law for the fiscal year of 1950, and is authorized to further increase the compensation of such Justice of the Peace an additional one per cent (1%) of said sum allowed under the law for the fiscal year of 1950 for each One Million Dollars (\$1,000,000) valuation; or fractional part thereof, in excess of the assessed valuation of said county for ad valorem tax purposes for the fiscal year of 1950.

Sec. 2. In addition to said increased salary which may be allowed as provided in the preceding section, such Justices of the Peace shall have and retain as unaccountable fees, all fees, commissions or payments for performing marriage ceremonies, and for acting as Registrar for the Bureau of Vital Statistics, and for acting as ex officio Notary Public. Acts 1951, 52nd Leg., p. 1487, ch. 503.

Emergency. Effective June 28, 1951.

Section 3 of the Act of 1951 repealed conflicting laws and parts of laws in so far as conflicting.

Title of Act:

An Act authorizing Commissioners Courts

to increase compensation for Justices of the Peace in certain counties; repealing all laws in conflict; and declaring an emergency. Acts 1951, 52nd Leg., p. 1487, ch. 503.

Art. 3937. 3871 Tax assessor

Each Assessor of taxes shall receive the following compensation for his services, which shall be estimated upon the total value of the property assessed as follows: For assessing the state and county taxes on all sums for the first Five Million (\$5,000,000.00) Dollars, or less, five cents (5¢) for each One Hundred (\$100.00) Dollars of property assessed; and on all sums in excess of Five Million (\$5,000,000.00) Dollars three and one-half cents (3½¢) on each One Hundred (\$100.00) Dollars of property assessed; on all sums in excess of One Hundred Million (\$100,000,000.00) Dollars, two and one-quarter cents (2¼¢) on each One Hundred (\$100.00) Dollars. One-half of the above fee shall be paid by the state and one-half by the county. For assessing the taxes in all drainage districts, road districts, or other political subdivisions of the county, and water control and improvement districts, if assessed by the County Tax Assessor, the Assessor shall be paid three-fifths (¾) of one cent (1¢) for each One Hundred (\$100.00) Dollars of the assessed values of such districts or subdivisions; provided such compensation as is paid to the Assessor shall be pro-rated among the various drainage districts, road districts, or other political subdivisions of the county, and water control and improvement districts, according to the value of the property assessed in each district, or other political subdivision; and for assessing the poll tax, five cents (5¢) for each poll, and which shall be paid by the state. The Commissioners Court shall allow the Assessor of Taxes such sums of money to be paid monthly from the county treasury as may be

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

necessary to pay for clerical work, taking assessments, and making out the tax rolls of the county (such sums so allowed to be deducted from the amount allowed to the Assessor as compensation upon the completion of said tax rolls); provided the amount allowed the Assessor by the Commissioners Court shall not exceed the compensation that may be due by the county to him for assessing. As amended Acts 1951, 52nd Leg., p. 332, ch. 204, § 1.

Section 3 of the amendatory Act of 1951 provided that nothing in this Act shall change or increase the maximum limit of salaries of Assessors and Collectors of taxes as now fixed by the law of Texas.

Art. 3939. 3872-7654—5 Tax collector

There shall be paid for the collection of taxes as compensation for the services of the Collector, beginning with the first day of September of each year, five (5%) per cent of the first Twenty Thousand (\$20,000.00) Dollars collected for the state, and two (2%) per cent on all taxes collected for the state over said sum; for collecting the county taxes, five (5%) per cent on the first Ten Thousand (\$10,000.00) Dollars collected, and two (2%) per cent on all such county taxes collected over said sum. For collecting the taxes in all drainage districts, road districts, or other political subdivisions of the county, and water control and improvement districts, if collected by the County Tax Collector, the Tax Collector shall be paid one-half of one ($\frac{1}{2}$ of 1%) per cent on all such taxes collected; provided that the amount to be paid the Tax Collector shall be paid by the various drainage districts, road districts, or other political subdivisions of the county, and water control and improvement districts on a pro-rata basis in accordance with the amount collected for such districts; and in counties owing subsidies to railroads the Collector shall receive only one (1%) per cent for collecting such railroad taxes; and in cases where property is levied upon and sold for taxes he shall receive the same compensation as allowed by law to sheriffs or constables on making the levy and sale in similar cases, but in no case to include commission on such sales; and on all occupation and license taxes collected, five (5%) per cent; for issuing statement of ad valorem taxes due, the Collector shall not be entitled to charge any fee; and for each ad valorem tax certificate issued, to bear his seal of office, the Collector shall charge fifty cents (50¢) to be paid by the applicant therefor. As amended Acts 1951, 52nd Leg., p. 332, ch. 204, § 2.

Art. 3943. 3875, 2469, 2405 Treasurer: Commissions limited; increase in compensation

Salaries of county treasurers, see art. 3943e.

Art. 3943d. Counties with population of 600,000 or more; county treasurer's compensation

That the commissioners court in each county in the State of Texas having a population of six hundred thousand (600,000) inhabitants or more according to the last preceding Federal Census, or any future Federal Census, shall determine annually the salary to be paid to the county treasurer at a reasonable sum of not less than Five Thousand Dollars (\$5,000) nor more than Eight Thousand Dollars (\$8,000) per annum, and the maximum salary and compensation of said treasurer shall not exceed Eight Thousand Dollars (\$8,000) in the aggregate for any one calendar year. Said treasurer shall be allowed to appoint such assistants

as said commissioners court may deem necessary at reasonable salaries, to be determined by said commissioners court. Said assistants shall have the authority to do and perform in the name of such county such acts, either clerical or ministerial in character, as may be required of him by said county treasurer. Acts 1951, 52nd Leg., p. 207, ch. 122, § 1.

Emergency. Effective May 2, 1951.

Section 2 of the Act of 1951 repealed conflicting laws.

Art. 3943e. Salary of county treasurer

Section 1. In each county in the State of Texas having a population of less than twenty thousand (20,000) inhabitants according to the last preceding Federal Census, where all the county officers are compensated on a salary basis, the Commissioners Court shall determine annually the salary to be paid the county treasurer, provided that the annual salary to be paid to the county treasurer shall not be set at any sum less than One Thousand, Eight Hundred Dollars (\$1,800) per annum.

Sec. 2. In each county in the State of Texas having a population of at least twenty thousand (20,000) and not more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, the Commissioners Court shall fix the salary of the county treasurer at any reasonable sum, providing such salary is not less than Two Thousand, Four Hundred Dollars (\$2,400) per annum.

Sec. 3. In each county in the State of Texas having a population of at least fifty thousand and one (50,001) and not more than one hundred thousand (100,000) inhabitants according to the last preceding Federal Census, the Commissioners Court shall fix the salary of the county treasurer at any reasonable sum, providing such salary is not less than Thirty-six Hundred Dollars (\$3600).

Sec. 4. In each county in the State of Texas having a population of at least one hundred thousand and one (100,001) and not more than three hundred thousand (300,000) inhabitants according to the last preceding Federal Census, the Commissioners Court shall fix the salary of the county treasurer at any reasonable sum, providing such salary is not less than Forty-two Hundred Dollars (\$4200).

Sec. 5. In each county in the State of Texas having a population of at least three hundred thousand and one (300,001) inhabitants, or more, according to the last preceding Federal Census, the Commissioners Court shall fix the salary of the county treasurer at any reasonable sum, providing such salary is not less than Forty-eight Hundred Dollars (\$4800). Acts 1951, 52nd Leg., p. 675, ch. 391.

Effective 90 days after June 8, 1951, date of adjournment.

Section 6 of the Act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act prescribing the minimum salaries

that may be paid to county treasurers who are compensated on a salary basis in this State; providing the method of fixing salaries of county treasurers; repealing all laws in conflict herewith; and declaring an emergency. Acts 1951, 52nd Leg., p. 675, ch. 391.

TITLE 63A—FIRE PROTECTION DISTRICTS [NEW]

Art. 3972a. Inoperative

This article, Acts 1951, 52nd Leg., p. 1197, ch. 495, providing for the creation, government, operation and maintenance of fire protection districts for the conservation of natural resources and properties within the state, outside of incorporated cities, towns and villages, is inoperative.

Section 21a provided that the Act "shall become operative when the Constitutional Amendment provided for in Senate Joint

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Resolution No. 8 is adopted by a vote of the qualified electors of this State and becomes effective."

S.J.R.No.3, 52nd Leg., 1951, proposing an amendment to section 48-d of Article III of the Constitution, authorizing the legislature to provide for the creation of rural fire prevention districts, was not adopted by the qualified electors at the election held on November 13, 1951.

TITLE 67—FISH, OYSTER, SHELL, ETC.

CHAPTER ONE—COMMISSIONER AND DEPUTIES

Art.

4025a. Contracts with United States Government; Davy Crockett National Forest [New].

Arts. 4016-4025

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see Vernon's Ann. P.C. art. 978f-3.

Art. 4025a. Contracts with United States Government; Davy Crockett National Forest

Section 1. The Game, Fish and Oyster Commission 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 or any National Forest land which can be designated by a natural boundary such as a road, water or stream, canyon, brush, rock or rocks, bluff or island, within the State of Texas situated within Houston and Trinity Counties and known as the Davy Crockett National Forest, and for the restocking of such lands with desirable species of game animals, game birds and other animals and fish. Provided, however, that no agreement provided for herein shall be made by said Commission to cover more than forty thousand (40,000) acres at any one time during any five-year period.

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, sex 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, or who shall violate any rule or regulation promulgated by the Game, Fish and Oyster Commission under the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction therefor shall be fined a sum of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100). Acts 1951, 52nd Leg., p. 84, ch. 54.

Emergency. Effective April 12, 1951.

CHAPTER TWO—FISH AND OTHER MARINE LIFE

Art.

4050d. Consent to Federal statute relating to fish restoration and management [New].

Art. 4026a. Prohibiting sale of Trinity River bed and reservation for hunting and fishing

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see Vernon's Ann.P.C. art. 978f-3.

Arts. 4027-4029

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see Vernon's Ann. P.C. art. 978f-3.

Art. 4030. Fish and oyster fund

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see Vernon's Ann.P.C. art. 978f-8.

8. Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see Vernon's Ann. P.C. art. 978f-3.

Art. 4032. Repealed. Acts 1933, 43rd Leg., 1st C.S., p. 85, ch. 29, § 7.

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see Vernon's Ann. P.C. art. 978f-3.

Arts. 4035-4037, 4042, 4045-4048, 4049a

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see Vernon's Ann. P.C. art. 978f-3.

Arts. 4049b, 4049c

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see Vernon's Ann.P.C. art. 978f-3.

Art. 4050. May take brood fish

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see Vernon's Ann. P.C. art. 978f-3.

Art. 4050b. Consent to Federal statute providing for Federal aid to states in wildlife restoration projects

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see Vernon's Ann.P.C. art. 978f-3.

Art. 4050d. Consent to Federal statute relating to fish restoration and management

The State of Texas hereby assents to the provisions of the Act of Congress entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects," approved August 9, 1950 (Public Law 681, 81st Congress),¹ and the Game, Fish and Oyster Commission is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative fish restoration projects, as defined in said Act of Congress, in compliance with said Act and rules and regulations promulgated by the Secretary of the Interior thereunder. Acts 1951, 52nd Leg., p. 90, ch. 57, § 1.

¹ 16 U.S.C.A. § 777 et seq.

Effective 90 days after June 8, 1951, date of adjournment.

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see Vernon's Ann.P.C. art. 978f-3.

Title of Act:

An Act assenting to the provisions of

Congress entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects," approved August 9, 1950; and declaring an emergency. Acts 1951, 52nd Leg., p. 90, ch. 57.

CHAPTER THREE—MARL, SAND AND SHELL

Arts. 4051–4053

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see Vernon's Ann. P.C. art. 978f–3.

Arts. 4053d–4056a

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see Vernon's Ann. P.C. art. 978f–3.

CHAPTER FOUR—GULF STATES MARINE FISHERIES [NEW]

Art. 4075a. Gulf States Marine Fisheries Compact

Complementary Laws:

Alabama—Acts 1947, p. 17.

Florida—Laws 1947, c. 24353, F.S.A. §§
374.49–374.54.

Louisiana—Acts 1948, No. 329.

Mississippi—Laws 1950, ch. 556.

Texas—Laws 1949, ch. 554.

TITLE 69—GUARDIAN AND WARD

CHAPTER SEVEN—FISCAL MANAGEMENT

Art. 4192. Mineral lease

Guardians of the estates of minors, persons of unsound mind, and other persons, appointed under the laws of this State, may make, enter into, and execute leases for the exploration, development, and production of oil, gas, and other minerals or any one or more of them on, in, and under the lands belonging to the estates of their wards, may include in such leases provisions authorizing the lessees to pool or unitize the rights in oil, gas (including all liquid hydrocarbons in the gaseous phase in the reservoir), and other minerals or any one or more of them on, in, and under the lands of their wards with similar rights in other lands, and may make, enter into, and execute pooling or unitization agreements covering the interests of their wards in oil, gas (including all liquid hydrocarbons in the gaseous phase in the reservoir), and other minerals or any one or more of them in any lands of their wards, so as to pool or unitize such interests in oil, gas, and other minerals or any one or more of them with interests in other lands; provided, however, the authority to pool or unitize oil and gas or either of them granted by such leases to the lessees therein shall be limited to pooling or unitization reasonably necessary to conform to the applicable spacing rules or regulations of the Railroad Commission of Texas or regulatory body, State or Federal, having authority to control or regulate the spacing pattern for the drilling of wells for oil or gas. All such leases and pooling or unitization agreements shall be made and entered into under the following rules:

1. The guardian shall file his sworn application with the County Clerk of the county where such guardianship is being administered for authority to make, enter into, and execute such a lease or pooling or unitization agreement, and the County Judge, either in term time or vacation, shall hear the application and shall require proof as to the necessity or advisability of such lease or pooling or unitization agreement; and if he approves the same, he shall enter an order authorizing the guardian to make, enter into, and execute such lease or pooling or unitization agreement, and the order shall contain a copy thereof.

2. Previous notice of such application shall be given by the guardian for ten days prior to the time the County Judge hears the application. The notice shall be given by publishing same in some newspaper of general circulation, published in the county where the guardianship is being administered, for one issue of the paper. The date of publication shall be the date the paper actually bears. The notice shall say when and where the application will be heard. If no such newspaper is published in the county where the notice is required to be given, then the notice may be given by posting same at the court house door of such county, or at any other place in the court house provided for posting of notices or citations, at least ten days next preceding the date of the hearing, and the publishing or posting as herein provided may be shown by the return of the sheriff or constable, or by the affidavit of any credible person made on a written copy of the notice so published or posted, showing the fact of publishing or posting. The time specified for the giving of notice as herein provided shall apply regardless of the provisions of any other statute, whether special or general.

3. No notice of such application shall be given by the County Clerk, but notice must be given by the guardian as herein provided, and, when the application is filed, the Clerk shall immediately call the attention of the Judge of the Court in which the guardianship is being administered

to the filing of the application, and the Judge shall designate a date to hear the application, which date shall not be within ten days succeeding the filing of the application; and such hearing may be continued from time to time until the Judge is satisfied concerning the application.

4. After the hearing of the application and the granting of same by the Court the guardian shall be fully authorized to make, enter into, and execute the lease, which may contain pooling or unitization provisions, or to make, enter into, and execute the pooling or unitization agreement upon the land of the ward, in accordance with the judgment of the Court thereon. In the event the Court considers the making or entering into of any such lease or pooling or unitization agreement of sufficient benefit to the estate of the ward, he may authorize the execution thereof without requiring the payment of any cash consideration or bonus therefor, and shall so state in his order authorizing the execution thereof; and in that event, when the order has been made, the guardian shall be fully authorized to make and enter into, and to execute and deliver, the authorized lease or pooling or unitization agreement, and it shall not be necessary for the Court to make an order confirming the execution thereof. In the event the order of the Court requires a cash bonus to be paid, the lease or pooling or unitization agreement shall not be valid until the guardian files a good and sufficient bond in an amount, if the sureties thereon are natural persons, equal to double the amount of the cash bonus that is provided to be paid; but if the surety on the bond is either a domestic corporation or a foreign corporation permitted to do business in the State of Texas for the purpose of issuing surety, guaranty, or indemnity bonds guaranteeing the fidelity of guardians, the bond shall be in an amount equal to the amount of the cash bonus that is provided to be paid, which bond shall be approved by the County Judge, filed with the County Clerk, and recorded in the minutes of the Court; provided, however, in the event the order of the Court contains findings to the effect that the general bond of the guardian is sufficient in amount to equal double the value of the personal property of the estate on hand, including the amount of such cash bonus, no additional bond shall be required. When the order has been made and any bond that may be required hereunder has been executed and approved, the guardian shall be fully authorized to make and enter into, and execute and deliver, the authorized lease or pooling or unitization agreement, and it shall not be necessary for the Court to make any order confirming the execution thereof.

5. No such lease or pooling or unitization agreement heretofore or hereafter executed shall extend beyond the time that any minor ward shall become twenty-one years of age, unless at that time the lessee or unit operator, as the case may be, shall have discovered any mineral specified in the lease or pooling or unitization agreement in paying quantities upon the land of the ward or upon any of the land with which the ward's land is pooled or unitized, in which event such lease shall remain in full force and effect for so long as production in paying quantities is obtained from the ward's land or any land with which the land of the ward is pooled or unitized. The marriage of a female ward shall not terminate any such lease or agreement made hereunder. As amended Acts 1951, 52nd Leg., p. 56, ch. 34, § 1.

Emergency. Effective March 21, 1951.

Sections 2 and 3 of the amendatory Act of 1951 read as follows:

Sec. 2. Nothing contained in this Act shall be construed as invalidating any provision now included in any oil and gas and other mineral lease executed by a guardian pursuant to Court order which authorizes the lessee in the lease to pool the land or

any portion thereof with other leases or lands.

Sec. 3. If any clause, sentence, paragraph, or section of this Act is declared invalid or unconstitutional by any Court of competent jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect.

TITLE 70—HEADS OF DEPARTMENTS

CHAPTER ONE—SECRETARY OF STATE

Art.

4341a. Contracts with Federal Government; state agencies and subdivisions to file copies [New].

Art. 4331. 4304-5-6-7-8-13-17-18 General duties

8. Repealed. Acts 1951, 52nd Leg., p. 218, ch. 131, § 3.

Emergency. Effective May 2, 1951.

Distribution of legislative journals, see art. 5429d.

Art. 4335. 4310, 2808 Officers entitled to laws

The following shall be entitled to receive one (1) copy of each of all General and Special Laws hereafter passed by the Legislature, to wit: The Governor, each Member of the Legislature, the Judges of the District and Appellate Courts throughout the State, and to the heads of departments, upon request. As amended Acts 1951, 52nd Leg., p. 599, ch. 353, § 1.

Emergency. Effective June 2, 1951.

Section 2 of the amendatory Act of 1951 repealed conflicting laws but only to the extent of the conflict.

Art. 4336. 4311, 2809 How distributed

The Secretary of State shall distribute the printed laws of each Session of the Legislature to the officers named in the preceding Section either by mail or delivery in person. As amended Acts 1951, 52nd Leg., p. 599, ch. 353, § 1.

Art. 4341a. Contracts with Federal Government; state agencies and subdivisions to file copies

When an agency or political subdivision of the State government has entered into a contract or agreement with the Federal government, such State agency or political subdivision shall file a copy of such contract or agreement with the Secretary of State for recording. Such State agency shall not encumber or expend any Federal funds received through such contracts or agreements until said copy is filed with the Secretary of State. Provided that copies of research contracts "classified" in the interest of national security shall not be filed, but in lieu thereof a statement that such a contract has been made shall be filed. Acts 1951, 52nd Leg., p. 94, ch. 60, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the Act of 1951 repealed all conflicting laws and parts of laws to the extent of such conflict.

Title of Act:

An Act providing for the recording of certain contracts and agreements of agencies or political subdivisions of the State government; containing a repealing clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 94, ch. 60.

CHAPTER TWO—COMPTROLLER OF PUBLIC ACCOUNTS

Art. 4353. 4344 Deposit warrants

The Comptroller shall have printed uniform deposit warrants, which shall be prepared in triplicate and marked "original," "duplicate," and "triplicate," respectively, and which shall be serially numbered. He shall provide for the use of his department a warrant register in which to enter such deposit warrants in consecutive order. When a deposit warrant is prepared, it shall be registered in the deposit warrant register. A distribution of the amount stated in each deposit warrant shall be entered on the revenue analysis record containing accounts for each source of revenue. The triplicate deposit warrant shall be, on receipt by the Treasurer of the amount stated therein, receipted by the Treasurer and delivered to the person making the deposit. The original shall be retained by the Treasurer, who shall file the same numerically, and the duplicate shall be, on the receipt of the amount stated therein, receipted by the Treasurer and by him returned to the Comptroller, who shall file the same numerically. The printed forms for these warrants and the warrant register shall be so prepared and arranged that the original, duplicate, and triplicate may, by use of carbon sheets, all be prepared in one and the same writing. No deposit shall be received in or into the State Treasury on any account, except upon a deposit warrant issued as herein provided. The Comptroller shall furnish the Treasurer with a copy of the deposit warrant register for deposits made each day, which shall constitute the Treasurer's deposit warrant register. As amended Acts 1951, 52nd Leg., p. 607, ch. 359, § 1.

Emergency. Effective June 2, 1951.

CHAPTER SIX—VETERANS' PREFERENCES

Art. 4413(31). Preference of veterans in appointment or employment

Persons entitled to preference

Section 1. From and after the effective date of this Act, in every public department, commission, board, and government agency, and upon all public works of this State, all honorably discharged soldiers, sailors, marines, members of the air corps and coast guard of the United States, nurses in military service of the United States, and all women in military service of the United States in the different auxiliary services thereof, in the Spanish-American War, Phillipine Insurrection, China Relief Expedition, World War I and World War II, or in any other military conflict in which the United States of America has been a participant, or the war in Korea after June 24, 1950, and the widows and orphans of such personnel of the Armed Forces of the United States, who are and have been citizens of Texas for not less than five (5) years preceding the date of application in pursuance of this Act, and are competent and fully qualified, shall be entitled to preference in appointment or employment over other applicants for the same position having no greater qualifications; provided, that this Act shall not apply or benefit any person who was a conscientious objector at the time of his or her discharge from any of the military services herein mentioned. As amended Acts 1951, 52nd Leg., p. 374, ch. 238, § 1.

Emergency. Effective May 17, 1951.

TITLE 71—HEALTH—PUBLIC

Chap.	Art.
9A. Dental Hygienists [New]	4551e
18. Identification of System of Healing [New]	4590e

CHAPTER ONE—HEALTH BOARDS AND LAWS

Art. 4437a. Hospital control in counties of 200,000 or over; tuberculosis control

Tax

Sec. 3. A direct tax of not over Fifty (50¢) Cents on the valuation of One Hundred (\$100.00) Dollars may be authorized and levied by the Commissioners Court of such county for the purpose of erecting buildings, or additions thereto, or other improvements and equipment, and for operating and maintaining such hospital; provided that all such levies of taxes shall be submitted to the qualified tax-paying voters of the county, and a majority vote shall be necessary to levy the tax. Successive elections may be held to authorize additional taxes hereunder, provided the total tax shall not exceed the maximum hereinabove provided. As amended Acts 1951, 52nd Leg., p. 107, ch. 63, § 1.

Emergency. Effective April 20, 1951.

CHAPTER THREE—FOOD AND DRUGS

Art. 4473. Preservatives added; regulations by State Board of Health

No person shall manufacture, sell, offer or expose for sale or exchange any article of food to which has been added formaldehyde, boric acid or borates, benzoic acid or benzoate, sulphurous acids or sulphites, salicylic acid or salicylates, abradol, beta naphthol, fluorine compounds, dulcin, glucin, cocaine, sulphuric acid or other mineral acid except diluted phosphoric acid, any preparation of lead or copper or other ingredients injurious to health; provided, however, that organic salicylates used for flavoring, such as methyl salicylate, oil of betula lenta or oil of gaultheria procumbens shall not be prohibited; and further provided that the addition of sulphur dioxide to tree-ripened natural lime or lemon juices, which juices are unprocessed by either heat, cold, cooking, freezing, dilution, reconstitution or concentration shall not be prohibited if said sulphur dioxide does not exceed one-thirtieth (1/30) of one per cent (1%) of the total weight of said unprocessed natural lime or lemon juice. Nothing herein shall be construed as prohibiting the sale of foods or drinks preserved with one-tenth (1/10) of one per cent (1%) of benzoate of soda, or the equivalent benzoic acid, when a statement of such fact is plainly indicated on the label.

The State Board of Health is hereby authorized, for the protection of the public health, to promulgate regulations limiting the quantity of any other bleaching, clarifying or refining agents, that may be used for bleaching, clarifying or refining fruits, vegetables and other foods. As amended Acts 1951, 52nd Leg., p. 23, ch. 16, § 1.

Emergency. Effective March 10, 1951.

CHAPTER FOUR—SANITARY CODE

Art.

4477a. Amended and duplicate birth certificates for correction of errors [New].

Article 4477.

Rule 34a. State department of health.—The State Department of Health shall have charge of the registration of vital statistics; shall establish a Bureau of Vital Statistics with suitable offices properly equipped for the preservation of its official records; shall install a state-wide system of vital statistics; shall make and may amend necessary regulations, give instructions and prescribe forms for collecting, recording, transcribing, compiling and preserving vital statistics; shall require the enforcement of the Vital Statistics Law and the regulations made pursuant thereto; shall in time of emergency be authorized to suspend any part or parts of the Vital Statistics Law which tend to hinder or impede uniform and efficient registration of vital events and substitute therefor emergency regulations designed to expedite such registration under disaster conditions; and shall from time to time recommend any additional legislation that may be necessary for this purpose. As amended Acts 1951, 52nd Leg., p. 145, ch. 87, § 1.

Emergency. Effective April 30, 1951.

Rule 36a. Registration districts.—For the purposes of this Act¹ the State shall be divided into primary registration districts as follows: Each justice of the peace precinct and each incorporated town of two thousand, five hundred (2,500) or more population, according to the last United States Census, shall constitute a primary registration district, provided the State Board of Health may combine two (2) or more registration districts, or may divide a primary registration district into two (2) or more parts, so as to facilitate registration, and in the justice of the peace precinct, the justice of the peace shall be local registrar, and in cities of two thousand, five hundred (2,500) or more, according to the last United States Census, the city clerk or city secretary shall be the local registrar of births and deaths.

It is hereby declared to be the duty of the justice of the peace in the justice of the peace precinct, and the city clerk or city secretary in the city of two thousand, five hundred (2,500) or more population to secure a complete record of each birth, death, and stillbirth that occurs within their respective jurisdictions. As amended Acts 1951, 52nd Leg., p. 145, ch. 87, § 2.

¹ Rules 34a-55a; Vernon's Ann.P.C. art. 781a.

Emergency. Effective April 30, 1951.

Rule 38a. Dead bodies.—(a) The State Department of Health shall provide a permit for the burial, cremation, entombing, removal, transportation by common carrier or other disposition of dead human bodies, which shall be known as the burial-transit permit, and no other permit shall be necessary for any of the above purposes, provided that a special cremation permit shall be obtained when required by the provisions of Section 2, Article 969, Code of Criminal Procedure. (b) No dead body shall be interred or otherwise disposed of, or be held pending disposition for more than 72 hours after death, or the finding thereof, until a burial-transit permit has been obtained from the local registrar of the district in which the death or stillbirth occurred or the body was found. (c)

When a death or stillbirth occurs or a dead body is found within this State, no permit shall be issued until a certificate of death or stillbirth has been filed in accordance with the requirements of the Vital Statistics Law¹ and the regulations of the State Department of Health. (d) When a death or stillbirth occurs outside this State, a burial-transit permit issued in accordance with the law and regulations in force where the death or stillbirth occurred shall authorize the transportation of the body into or through this State, and further such permit shall be accepted by any cemetery or crematory as authorization for burial, cremation, or other disposal of the body in this State. (e) The State Department of Health shall regulate the disposal, transportation, interment, and disinterment of dead bodies, to such extent as may be reasonable and necessary for the protection of the public health and safety. (f) Where otherwise referred to in the Vital Statistics Law, "burial or removal permit," "burial permit," "removal permit," and "transit permit" shall be construed to mean "standard burial-transit permit." As amended Acts 1951, 52nd Leg., p. 128, ch. 79, § 1.

¹ Rules 34a-55a; Vernon's Ann.P.C. art. 781a.

Emergency. Effective April 25, 1951.

Rule 39a. Report of stillborn.—A certificate of each stillbirth which occurs in this State shall be filed with the local registrar of the district in which the stillbirth occurred, and if the place of stillbirth is not known, the certificate shall be filed with the local registrar of the district in which the body was found. The standard certificate of stillbirth shall be in such form and shall provide for such items of information as may be prescribed by the State Department of Health. All items prescribed on the certificate of stillbirth are hereby declared necessary for the legal, social and sanitary purposes subserved by registration records. The person in charge of interment or of removal of the body from the district for disposition shall be responsible for obtaining and filing the certificate and shall supply on such certificate over his signature the data relating to the disposition of the body. He shall obtain the required information from the following persons, over their respective signatures: (a) Personal data shall be supplied by the person best qualified to supply them, (b) Except as otherwise provided, the medical certification shall be made by the physician, if any, in attendance at the stillbirth. Midwives shall not sign certificates of stillbirth, but such cases, and stillbirths occurring without attendance of either physician or midwife shall be treated as deaths without medical attendance as provided in Rule 41a, Article 4477, Revised Civil Statutes of Texas. The certificate of stillbirth shall be filed in the same manner as a certificate of death and a burial-transit permit shall be required. As amended Acts 1951, 52nd Leg., p. 128, ch. 79, § 2.

Emergency. Effective April 25, 1951.

Rule 40a. Death certificates.—A certificate of each death which occurs in this State shall be filed with the local registrar of the district in which the death occurred, and if the place of death is not known, the certificate shall be filed with the local registrar of the district in which the body was found. The standard certificate of death shall be in such form and shall provide for such items of information as may be prescribed by the State Department of Health. All items prescribed on the certificate of death are hereby declared necessary for the legal, social and sanitary purposes subserved by registration records. The person in charge of interment or of removal of the body from the district for disposition shall be responsible for obtaining and filing the certificate and shall supply on such certificate over

his signature the data relating to the disposition of the body. He shall obtain the required information from the following persons, over their respective signatures: (a) Personal data shall be supplied by a competent person having knowledge of the facts, (b) Except as otherwise provided, the medical certification shall be made by the physician, if any, last in attendance on the deceased. If the deceased shall have rendered service in any way, campaign or expedition of the United States of America, the Confederate States of America or the Republic of Texas, or who at the time of death was in the service of the United States of America, or a wife or widow of any person who has served in any war, campaign or expedition of the United States of America, the Confederate States, or the Republic of Texas, the funeral director or person having charge of the disposition of the body shall show the following facts on the reverse side of the death certificate: the organization in which service was rendered, the serial number taken from the discharge papers or the adjusted service certificate, the name and post office address of the next of kin or next friend of the deceased. And provided that when such a death certificate is filed, the local registrar shall immediately notify the nearest Congressionally Chartered Veteran Organizations. And provided further, that the State Registrar, when such certificate is filed with the State Bureau of Vital Statistics, shall notify the State Service Officer of the Adjutant General's Department and the State Adjutant of the American Legion and the State Comptroller. As amended Acts 1951, 52nd Leg., p. 128, ch. 79, § 3.

Emergency. Effective April 25, 1951.

Rule 43a. Form of burial-transit permit.—The standard burial-transit permit shall be in such form and shall provide for such items of information as may be prescribed by the State Department of Health. As amended Acts 1951, 52nd Leg., p. 128, ch. 79, § 4.

Emergency. Effective April 25, 1951.

Rule 47a. Form and contents of birth certificates; supplementary certificate; certificates of adoption, annulment and revocation.—The standard certificate of birth shall be in such form and shall provide for such items of information as may be prescribed by the State Department of Health. All items prescribed on the certificate of birth are hereby declared necessary for the legal, social and sanitary purposes subserved by registration records. Provided that the name of the father, or any information by which he might be identified, shall not be written into the birth or death certificate of any illegitimate child; and provided, further, that any statement that the father of an illegitimate child wishes to make as to its parentage, may, when placed in the form of an affidavit, be attached to the original birth record. Neither the State Registrar, county clerk, nor any local registrar shall issue a certified copy of any birth or death certificate, wherein a child or an adult is stated to be illegitimate, unless such certified copy is ordered issued by the county court of the county in which said child was born or died, or by a court of competent jurisdiction, or by said illegitimate person or the guardian or legal representative thereof.

Subject to the regulations of the State Department of Health, any person: (a) legitimated by the subsequent marriage of its parents; (b) whose parentage has been determined by a court of competent jurisdiction; or (c) adopted under the law existing at the time of adoption in this State or any other State or Territory of the United States of America may request the State Registrar to file a supplementary certificate of birth on the basis of the status subsequently acquired or established and of which proof is submitted. The application to file a supplementary

certificate of birth may be filed by the person, if of age, or a legal representative of the person. The State Registrar shall require such proof in these cases as the State Department of Health may by regulation prescribe. The preparation and filing of supplementary certificates of birth based on legitimation, paternity determination, and adoption shall be in accordance with the regulations of the State Department of Health. Provided, however, that when a child is adopted the new birth certificate shall be in the names of the parents by adoption, and the copies of birth certificates or birth records made therefrom shall not disclose the child to be adopted. After the supplementary certificate is filed, any information disclosed from the record shall be made from the supplementary certificate, and access to the original certificate of birth and to the documents filed upon which the supplementary certificate is based shall be authorized upon the request of the person, if of legal age, his legal representative or upon order of a court of competent jurisdiction.

A certificate of each adoption, annulment of adoption, and revocation of adoption ordered or decreed in this State shall be filed with the State Registrar as hereinafter provided. The information necessary to prepare the certificates shall be supplied to the clerk of the court by the petitioner for adoption, annulment of adoption, or revocation of adoption at the time the petition is filed. The clerk of the court shall thereupon prepare the certificate on a form furnished by and containing such items of information as may be determined by the State Department of Health and shall, immediately after the decree becomes final, complete the certificate. On or before the 10th of each month, the clerk shall forward to the State Registrar the certificates completed by him for decrees which have become final during the preceding calendar month.

Provided, that the above provisions shall not, in any way, be construed as affecting the property rights of said husband, or said child, or children, and provided further that the above provisions shall not, in any way, be construed as amending, modifying, or repealing any of the present laws of the State of Texas governing descent and distribution of property. As amended Acts 1951, 52nd Leg., p. 355, ch. 223, § 1.

Emergency. Effective May 17, 1951.

Rule 51a. Blanks and registration forms; index of births and deaths; records; transcripts; fees; trial of issue regarding birth or death absent affidavit. The State Department of Health shall prepare, print, and supply to local 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 supply its local registrar, and each county shall supply the county clerk with permanent record books, in form approved by the State Registrar, for the recording of all births, deaths, and stillbirths 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. 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, death, or stillbirth upon demand of the State Registrar, in person, by mail,

or through the local registrar. After its acceptance for registration by the local registrar, no record of any birth, death, or stillbirth shall be altered or changed, provided, however, that if any such record is incomplete, or satisfactory evidence can be submitted proving the record to be in error in any respect, an amending certificate may be filed for the purpose of completing or correcting such record, which amendment shall be in a form prescribed by the State Department of Health and shall, if accepted for filing, be attached to and become a part of the legal record of such birth, death, or stillbirth. 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 names of decedents, and in the case of births, by the names of fathers and mothers. If any organization or 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 organization or individual, may file such record, or a duly authenticated transcript thereof with the State Registrar. If any person desires a transcript of any such record, the State Registrar shall furnish the 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 State Registrar shall be satisfied that the applicant is properly entitled thereto, and that it is to be used only for legitimate purposes.

Provided further, that any citizen of the State of Texas wishing to file the record of any birth or death occurring in Texas prior to 1903, or occurring during or subsequent to 1903 and not previously registered as evidenced by a statement to that effect issued by the State Registrar, may submit to the probate court of the county in which 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 and not previously registered as evidenced by a statement to that effect issued by the proper State Registrar, may submit to the probate court in the county where he resides a record of that birth or death written on the adopted form of birth and death certificates. The certificate shall be substantiated by the affidavit of the physician, if any, 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 physician or undertaker cannot be secured, the certificate shall be supported by (a) the affidavit of some person who was acquainted with the facts surrounding the birth or death, at the time the birth or death occurred, provided that any person making such affidavit in support of a record falsified in any respect shall be guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than One Hundred Dollars (\$100) and not more than Five Hundred Dollars (\$500), or by imprisonment in the county jail for not less than sixty (60) days and not more than one (1) year, or may be punished by both such fine and imprisonment, and (b) the affidavit of some person who was acquainted with the facts surrounding the birth or death, and who is not related to the individual by blood or marriage. Provided that when application is made as provided in this paragraph, a fee of One Dollar (\$1) 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 Article 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 Act¹. 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. As amended Acts 1951, 52nd Leg., p. 355, ch. 223, § 2.

¹ Article 4477, rule 54a.

Amended or duplicate birth certificates has been erroneously inserted, see article where word "Mexican" or other nationality: 4477a.

Rule 53a. Fees.—That each local registrar shall be paid the sum of Fifty Cents (50¢) for each birth, death, and stillbirth certificate properly and completely made out and registered with him, and correctly recorded and promptly returned by him to the State Bureau of Vital Statistics, as required by this Act,¹ unless such local registrar shall be acting as registrar in an incorporated city where the compensation of the registrar is otherwise fixed by city ordinance.

The State Registrar shall annually certify to the county commissioners court or county auditor, as the case may be, the number of birth, death and stillbirth certificates filed by each local registrar at the rate fixed herein, and provided that the State Registrar may render such statements monthly or quarterly, at the discretion of the State Board of Health, and the commissioners court or county auditor, as the case may be, shall audit such statement and the county treasurer shall pay such fees as are approved by the commissioners court or the county auditor, at the time such statement is issued.

And provided further, that the justice of the peace, city clerk or secretary, and the appointed local registrar shall submit to the commissioners court or county auditor, as the case may be, a true and accurate copy of each birth, death, and stillbirth certificate filed with him, and such copies shall bear his file date and signature and shall be deposited in the county clerk's office, provided, however, that this provision shall not apply to cities having an ordinance requiring that true and accurate copies of each birth, death, and stillbirth certificate be permanently

filed in the office of the city registrar. The county clerk shall be paid for indexing and preserving such records, such compensation as may be agreed upon by the commissioners court. As amended Acts 1951, 52nd Leg., p. 145, ch. 87, § 3.

¹ Rules 34a-55a; Vernon's Ann.P.C. art. 781a.

Emergency. Effective April 30, 1951.

Rule 54a. Copies of records.—Subject to the regulations of the State Department of Health controlling the accessibility of vital records, the State Registrar shall, upon request, supply to any properly qualified applicant a certified copy of a record, or any part thereof, registered under the provisions of this Act¹, for the making and certification of which he shall be entitled to a fee of Fifty Cents (50¢), to be paid by the applicant; provided, that such certified copies shall be issued in only such form as approved by the State Department of Health. And any such copy of a record, when properly certified by the State Registrar, shall be prima-facie evidence in all courts and places of the facts therein stated. For any search of the files where a record is not found or a certified copy is not made, the State Registrar shall be entitled to a fee of Fifty Cents (50¢) for each hour or fractional part of an hour of time of search, said fee to be paid by the applicant. The State Registrar shall, upon request of any parent or guardian, supply, without fee, a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment. The State Registrar shall issue free of cost to any veteran, his widow, orphan or other dependents a certified copy of any record not otherwise prohibited by law when such record is to be used in the settlement of a claim against the Government. The State Registrar may issue, upon court order, without fee, a certified copy of a birth record in cases relating to child labor and the public schools. Provided, that the national agency in charge of the collection of vital statistics may obtain, without expense to the State, transcripts of vital records without payment of the fees herein prescribed; and provided further, that the State Registrar is hereby authorized to act as special agent for that agency in accepting the use of the franking privilege and blanks furnished by that agency; and provided further, that the Bureau of Vital Statistics of the State Department of Health is hereby authorized to enter into a contract with the national agency in charge of the collection of vital statistics in order to have transcribed for that agency copies of vital records filed with the State Bureau of Vital Statistics. The State Registrar shall keep a true and correct account of all money by him received under these provisions, and deposit the same with the State Treasurer at the close of each month, and all such money shall be kept by the State Treasurer in a special and separate fund, to be known as the Vital Statistics Fund, and the amounts so deposited in this Fund shall be used for defraying expenses incurred in the enforcement and operation of this Act. As amended Acts 1951, 52nd Leg., p. 145, ch. 87, § 4.

¹ Rules 34a-55a; Vernon's Ann.P.C. art. 781a.

Emergency. Effective April 30, 1951.

Rules 77-86. Repealed. Acts 1951, 52nd Leg., p. 128, ch. 79, § 6. Effective April 25, 1951.

Art. 4477a. Amended and duplicate birth certificates for correction of errors

Section 1. All State Officials or Officers, or officers or officials of any political subdivision of this State and all other persons having authority

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

to issue birth certificates are hereby required to issue amended birth certificates or duplicate copy of such birth certificate upon application of an offended person where an error has been made in the original draft of the certificate by erroneously inserting the word "Mexican," or any other nationality, under the title of color or race on such birth certificate, and that the actual color or race be inserted in lieu of such erroneously inserted nationality in the space provided for color or race. The provisions of this Act are mandatory and not directory.

Sec. 2. This Act is cumulative of all existing laws, except that any law in conflict herewith is hereby repealed, but only to the extent of such conflict. Acts 1951, 52nd Leg., p. 376, ch. 240.

Emergency. Effective May 17, 1951.

Title of Act:

An Act requiring all State Officials or Officers, or officers or officials of any political subdivision of this State and all other persons charged with the duty of issuing copies of birth certificates and dupli-

cate copies of birth certificates to make certain corrections upon application of the offended party; making the Act cumulative of existing laws and repealing all laws in conflict herewith to the extent of such conflict; and declaring an emergency. Acts 1951, 52nd Leg., p. 376, ch. 240.

CHAPTER FOUR A—SANITATION AND HEALTH PROTECTION

Article 4477—1. Minimum standards of sanitation and health protection measures

Disposal of human excreta

(c). No privy shall hereafter be constructed within seventy-five (75) feet of any drinking water well or of a human habitation other than to which it is appurtenant without approval by the Local or State Health Officer, and no privy shall be erected or maintained over any abandoned well or over any stream; provided further that no privy shall be constructed or maintained in any unincorporated village which shall hereafter come within the provisions of Article 4434-35 of the Revised Civil Statutes of Texas, 1925, which is located within thirteen hundred and twenty (1320) feet of any water well which is used for drinking water purposes, and the construction, maintenance, and use of such privy in violation of this section shall be a nuisance. Provided, however, that this Act shall not apply to any county having less than three hundred fifty thousand (350,000) inhabitants according to the last preceding Federal Census. As amended Acts 1951, 52nd Leg., p. 764, ch. 416, § 1.

Emergency. Effective June 15, 1951.

CHAPTER SIX—MEDICINE

Art. 4501. 5739 Examination

All applicants for license to practice medicine in this State not otherwise licensed under the provisions of law must successfully pass an examination by the Board of Medical Examiners. The Board is authorized to adopt and enforce rules of procedure not inconsistent with the statutory requirements. Applicants to be eligible for examination must be citizens of the United States and must present satisfactory evidence to the Board that they are more than twenty-one (21) years of age, of good moral character, who have completed sixty (60) semester hours of college courses, other than in a medical school, which courses would be acceptable, at time of completing same, to the University of Texas for credit on a Bachelor of Arts Degree or a Bachelor of Science Degree, and who are graduates of bona fide reputable medical schools; a reputable

medical school shall maintain a course of instruction of not less than four (4) terms of eight (8) months each; shall give a course of instruction in the fundamental subjects named in Article 4503 of the Revised Civil Statutes of Texas of 1925, as amended by this Act; and shall have the necessary teaching force, and possess and utilize laboratories, equipment, and facilities for proper instruction in all of said subjects. Applications for examination must be made in writing, verified by affidavit, and filed with the Secretary of the Board, on forms prescribed by the Board, accompanied by a fee of Twenty-five (\$25.00) Dollars. All applicants shall be given due notice of the date and place of such examination. Provided further, that all students regularly enrolled in medical schools whose graduates are now permitted to take the medical examination now prescribed by law in this State shall upon completion of their medical college courses be permitted to take the examination prescribed herein.

If any applicant, because of failure to pass the required examination, shall be refused a license, he or she, at such time as the Board of Medical Examiners may fix, shall be permitted to take a subsequent examination, upon such subjects required in the original examination as the Board may prescribe, upon the payment of such part of Twenty-five (\$25.00) Dollars as the Board may determine and state. In the event satisfactory grades shall be made in the subjects prescribed and taken on such re-examination, the Board may grant to the applicant a license to practice medicine. The Board shall determine the credit to be given examinees on the answers turned in on the subjects of complete and partial examination, and its decision thereupon shall be final. Provided, however, the Secretary may issue a temporary license to practice medicine to an applicant only after he has filed his completed application with the Secretary, and that all of the other requirements as required for a permanent license are complied with, such temporary license shall be valid only until the date of the next Board Meeting, and at that date, the temporary license automatically expires and is of no further effect. If the applicant fails the examination, no further temporary license shall be issued until he has successfully passed the examination, or is eligible for and has been granted reciprocity. As amended Acts 1951, 52nd Leg., p. 753, ch. 410, § 1.

Emergency. Effective June 15, 1951.

Section 2 of the amendatory Act of 1951 read as follows: "Saving Clause. 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 the Act, but the remainder of the Act shall be given effect as if said invalid, unconstitutional, or inoperative section, or any part of section or provision, had not been included."

CHAPTER SEVEN—NURSES

Art.

4523c. Licensed vocational nurses [New].

Art. 4523c. Licensed vocational nurses

Definitions

Section 1. (a) The term "Licensed Vocational Nurse" as used in this Act, shall mean any person who directly attends or cares for the sick for compensation or hire, and whose personal qualifications, preliminary education or nursing education in biological, physical and social sciences will not qualify that person to become certified as a professional registered nurse, as defined and regulated under the laws of this State, and who uses the designation Licensed Vocational Nurse, or the abbreviation L. V. N.

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

(b) The term "Board" as used in this Act, shall mean the Board of Vocational Nurse Examiners as provided for hereafter in this Act.

Prohibiting Practice Without a License

Sec. 2. After the effective date of this Act, no person except those hereinafter expressly exempted, shall use the designation as a Licensed Vocational Nurse or the abbreviation L. V. N., unless such person shall hold a duly issued license as such, issued by the Board pursuant to the provisions of this Act.

Exceptions

Sec. 3. The provisions of this Act shall not apply to gratuitous nursing of the sick by friends or members of the family; nor shall the provisions of this Act apply to persons licensed by the Board of Nurse Examiners; nor shall the provisions of this Act apply to those persons who have graduated or may hereinafter graduate from the State Tuberculosis Sanatorium School of Nurses, so long as such persons nurse only tubercular patients; nor to persons employed by hospitals as maids, porters or orderlies; nor shall the provisions of this Act apply to persons who do not hold themselves out to the public as being Licensed Vocational Nurses or using the abbreviation L. V. N.

Term of Office, Organization, Meetings of Board

Sec. 4. (a) There is hereby created a board to be known as the Board of Vocational Nurse Examiners, consisting of nine (9) members to be appointed by the Governor and confirmed by the State Senate. The Board shall be composed of persons with the following qualifications: three (3) members of the Board shall be Licensed Vocational Nurses who shall have had a course of training as a Vocational Nurse, or equal training under any similar title such as Nursing Attendant, Nursing Aid, Practical Nurse, Technical Nurse, Nurse Technician, or Vocational Nurse, in a hospital staffed by physicians licensed by the Texas State Board of Medical Examiners or an institution, college or university providing the type of nurse training program as provided herein, and shall have been in active practice as a Licensed Vocational Nurse or such similar title for one (1) full year immediately preceding their appointment, provided, however, that after the first three (3) appointed under this Act, the requirements shall be three (3) years of active practice as a Licensed Vocational Nurse; two (2) members of the Board shall be Registered Nurses, registered with the State Board of Nurse Examiners, and one (1) of whom is actively engaged in a teaching, administrative or supervisory capacity in a Vocational Nurse training program, and the other of whom is actively engaged in a teaching, administrative or supervisory capacity in an accredited school of nursing; an accredited school of nursing as used herein shall mean a school of nursing that is accredited by the State Board of Nurse Examiners of Texas; two (2) members of the Board shall be persons licensed by the Texas State Board of Medical Examiners and who have been actively engaged in the practice of medicine for a period of five (5) years prior to their appointment, and neither of whom is actively engaged as a hospital administrator; two (2) members of the Board shall be hospital administrators who are not licensed either as nurses or by the Texas State Board of Medical Examiners or by any other board which licenses persons to practice the healing arts in this State, and who have been actively engaged in hospital administration for a period of five (5) years prior to appointment in a general hospital whose staff is composed of persons licensed by the State Board of Medical Examiners of Texas.

The term of office of each member of the Board shall be six (6) years, provided, however, in making the first appointments, the Governor shall appoint three (3) members of said Board for two (2) years, three (3) members for four (4) years, three (3) members for six (6) years, and thereafter the term of each member shall be six (6) years so that the terms of three (3) members shall expire every two (2) years, and provided further that appointment shall be made by the Governor in such manner that the term of two (2) members representing the same professional group shall not expire at the same time, and provided further that no member shall immediately succeed himself (or herself) in office. In case of death, resignation or vacancy from any cause on the Board, the vacancy of the unexpired term shall be filled by the Governor within sixty (60) days after the occurrence of such vacancy.

Each appointee to the Board of Vocational Nurse Examiners shall, within fifteen (15) days of the date of his appointment, qualify by taking the constitutional oath of office.

(b) At the first meeting after appointment of members, the Board shall elect a President, Vice-president, and Secretary-treasurer, and thereafter shall elect such officers yearly at an annual meeting. The Board may make such rules and regulations as may be necessary to govern its proceedings and to carry in effect the purposes of this law. The Secretary-treasurer shall be required to keep minutes of each meeting of said Board, a register of the names of all nurses licensed under this law, and books of account of fees received and disbursements; and all minutes, the register of Licensed Vocational Nurses and books of account shall be at all times open to public inspection. The State Auditor shall audit the books of this Board annually. The Board may select or employ a person other than a Board member as the Office Manager or Chief Clerk. The Board shall have the power to employ the services of stenographers, inspectors, and such other assistants as they deem necessary in carrying out the provisions of this law. The Secretary-treasurer shall be bonded by the Board in such amount as may be recommended by the State Auditor.

(c) The Board shall employ a full time Visiting Secretary, who shall have had at least five (5) years experience in teaching nursing in an accredited school of nursing or an accredited training program. During the first five (5) years after the effective date of this Act, the Visiting Secretary shall be a Registered Nurse, licensed by the State Board of Nurse Examiners. Thereafter, the Board may select either a Licensed Vocational Nurse or a Registered Nurse as the Visiting Secretary. The duties of said Secretary shall be to visit and inspect all schools for the training of Vocational Nurses at least once a year and to confer with superintendents of hospitals and superintendents of nursing schools as to the system of instruction given and as to accommodations and rules governing said schools in reference to its students. The Board shall prescribe such methods and rules of visiting, and such methods of reporting by said Secretary as may in its judgment be deemed proper.

(d) Regular meetings of the Board shall be held at least twice a year, one of which shall be designated as an Annual Meeting for election of officers and the reading of auditors' reports, and at both regular meetings licenses shall be issued to those qualified. At least twice each year the Board shall hold examinations for qualified applicants for licensure. Not less than sixty (60) days notice of the holding of examinations shall be given by publication in at least three (3) daily newspapers of general circulation, to be selected by the Board; special meetings shall be held upon request of four (4) members of the Board or upon the call of the President; six (6) members of the Board shall constitute a quorum for

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

the transaction of business, and should a quorum not be present on the day appointed for any meeting, those persons present may adjourn from day to day until a quorum shall be present, providing that such period shall not be longer than three (3) successive days; each member of said Board shall be paid Ten Dollars (\$10) per day for each day he attends meetings of the Board, not to exceed five (5) days for each meeting, and the time going to and returning from meetings shall be included in computing said time; in addition thereto, each member shall receive expenses incurred while actually engaged in the performance of the duties of the Board.

Appointments beginning in 1957

Sec. 4A. Beginning in 1957, each appointment to the Board of Vocational Nurse Examiners shall be a Licensed Vocational Nurse until all nine (9) members of the Board are Licensed Vocational Nurses.

Examinations and Issuance of Licenses

Sec. 5. Every person desiring to be licensed as a Licensed Vocational Nurse or use the abbreviation L. V. N. in the State of Texas, shall be required to pass the examination given by the Board of Vocational Nurse Examiners; the applicant shall make application by presenting to the Secretary of the Board, on forms furnished by the Board, satisfactory sworn evidence that the applicant has had at least two (2) years of high school education or its equivalent, and has attained the age of eighteen (18) years, is of good moral character, and in good physical and mental health; evidence of this fact shall be made by submitting an affidavit by a physician on a form prescribed by the Board; a citizen of the United States or has made a declaration of intention of becoming a citizen; and who has completed an accredited course of not less than twelve (12) months in an accredited school for training Vocational Nurses. An accredited school as used herein shall mean one accredited by the Board. Application for examination by the Board shall be made at least thirty (30) days prior to the date set for the examination.

In conducting examinations and in accrediting schools of Vocational Nurses and hospitals as provided for in this Act, it shall be mandatory upon the Board to ascertain that each Vocational Nurse shall have been taught the fundamentals of basic bedside nursing in the home and in the hospital. The course prescribed shall include cooking and preparation of standard simple diets for the sick; room cleaning and arrangement of the sickroom in the home and hospital; bed making; bathing and personal care of patients; cleansing and care of utensils used by the sick; the simple principles of hygiene and sanitation in the home and hospital; the methods of taking and recording temperature, pulse rate, respirations, blood pressure readings, fluid intake and output measurements; administration of foods and drugs by mouth, by rectum, by subcutaneous hypodermic injection, and such other subjects and procedures as may be regularly taught in the majority of such training programs.

The Board shall issue Temporary Permits to any Vocational Nurse who furnishes proof of graduation from an Accredited School of Vocational Nursing in this or any other State to practice Vocational nursing from the time of receipt of application until the time of completion of the next regular or special examination conducted by the Board.

Existing Vocational Nurses Licensed Without Examination

Sec. 6. All persons who have practiced or engaged in the activity as a Vocational Nurse, or any similar title used for a non-professional unregistered nurse, under a licensed physician or a director of nursing

service for one (1) year immediately prior to the effective date of this Act, may procure a license as a Licensed Vocational Nurse from the Board without examination upon the satisfactory proof as prescribed by the Board of such activity for the required time, and upon the payment of the fee hereafter required. Applicants for a license under this Section may apply for a license hereunder within one (1) year after the effective date of this Act and not thereafter.

Reciprocity

Sec. 7. Any applicant of good character who holds a license as an Attendant Nurse, Nursing Attendant, Nurse Aid, Nursing Aid, Practical Nurse, Technical Nurse, Nurse Technician, Vocational Nurse or any similar title used for a non-professional nurse unqualified for licensure as a Registered Nurse from another state whose requirements are equal to those of Texas, and whose individual qualifications shall be equivalent to those required by this law, may be granted a license to practice non-professional nursing as a Licensed Vocational Nurse in this State without examination provided a fee of Ten Dollars (\$10) is paid to the Board by such applicant.

Renewal

Sec. 8. Before the first day of August of each year, the Secretary of the Board shall mail an application form for a renewal certificate to all licensees. The application shall contain such information as the Board may deem necessary for its records. On or before the first day of September of each year every Licensed Vocational Nurse in this State shall pay to the Secretary-treasurer of the Board of Vocational Nurse Examiners an annual renewal fee of One Dollar (\$1) for the renewal of her license as a Licensed Vocational Nurse for the current year. On receipt of said annual renewal fee and application the Board shall issue an annual renewal certificate bearing the number of the license and the year for which renewed. When a Licensed Vocational Nurse shall have failed to pay her annual renewal fee before November 1st of each year, it shall be the duty of the Board to notify such Licensed Vocational Nurse at her 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 Board of Vocational Nurse Examiners within twenty (20) days after notification, said license shall be suspended and such person in order to be reinstated shall be required to pay one (1) annual renewal fee as a penalty in addition to all fees said person may be in arrears. Said annual renewal fee, as set forth above, shall be due on September 1st of each year and shall become delinquent on November 1st of each year.

Practicing as a Licensed Vocational Nurse 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 as a Licensed Vocational Nurse without a license.

Fees

Sec. 9. The following shall be the fees charged by the Board under this Act: application and examination fee, Ten Dollars (\$10); fee of Ten Dollars (\$10) for licensing existing Vocational Nurses in accordance with Section 6 hereof; annual renewal fee, One Dollar (\$1); penalty for late annual renewal fee, One Dollar (\$1); fee for license by reciprocity, Ten Dollars (\$10); fee for accrediting training programs, Twenty-five Dollars (\$25). All expenses under this Act shall be paid from the fees collected by the Board under this Act, and no expense incurred under this Act shall ever be charged against the funds of the State of Texas.

Revocation

Sec. 10. The Board may revoke any license issued under the provisions of this Act for gross incompetence, dishonesty, malpractice, intemperate use of drugs or alcoholic beverages, false or deceptive representations in obtaining a license, insanity of the licensee, proof of the conviction of the licensee of a felony involving moral turpitude under the laws of this State or of any other state or of the United States, or for any other reason which shall be deemed just cause by the Board. Such revocation shall be accomplished by a majority vote of the Board after a hearing held on specific charges filed against such licensee, which charges shall be made in writing, under oath and filed by the Secretary. A certified copy of the charges and a notice of the hearing before the Board shall be served on the licensee whose license is sought to be revoked not less than thirty (30) days prior to the hearing of such charges.

If the Board shall make and enter an order revoking any license as hereinabove authorized, the person whose license shall have been revoked, may, within thirty (30) days after the entering of such order, and not thereafter, take an appeal to the District Court of the county of residence of the person whose license shall have been so revoked, by filing an appropriate petition for such purpose. Said cause shall be placed on the docket of said Court in the name of the party filing same, as plaintiff, and the Board as defendant. It shall be the duty of said Board, upon the filing of a petition asking for an appeal and review of such proceedings of said Board, after citation in such cause has been issued and served as in other civil cases, to prepare and transmit to such District Court a transcript of the order hereinabove provided for, the same to be certified as true and correct by the secretary of said Board. The District Court shall thereafter set such cause for hearing as in other civil cases. Upon the hearing of such cause, if the Court or jury shall find that the action of the Board, in revoking such license is not well taken, such Court shall by appropriate order and judgment set aside such action of the Board and reinstate the license; but if the Court or jury shall sustain such action of the Board, an order in appropriate form shall be entered sustaining and affirming the action of the Board. Said trial shall be de novo and shall not be subject to the substantial evidence rule in sustaining administrative action by the Board. Either party may demand a jury in such trial, and either party may appeal the judgment of the Court, as in other civil cases. If no appeal be taken from the order of the trial court, the same shall become final after thirty (30) days.

**Membership in organization recognizing right to strike
or engage in organized work stoppage**

Sec. 10A. It shall be unlawful for any individual who has been licensed as a Licensed Vocational Nurse to be a member of any group, organization, association, or union which advocates or recognizes the right to strike, or which permits its members to engage in an organized work stoppage. Any person who has been licensed as a Licensed Vocational Nurse and who violates this Section of this Act, shall have his or her license suspended for a period of two (2) years, and the Board shall thereupon enter an order to such effect upon its minutes. It shall be incumbent upon the individual after the expiration of two (2) years to apply for a new license as a Licensed Vocational Nurse should such individual desire to engage in such work as herein authorized by this Act. It is the declared public policy of this State that a person who requires nursing care should be protected from organized work stoppages of any kind or character.

Injunctions

Sec. 11. Six (6) years after the effective date of this Act, any person practicing nursing who is not licensed as a Vocational Nurse, or as a Registered Nurse, or as a Tubercular Nurse, and who does not come under any of the exceptions set out in this Act, may be enjoined and restrained by a District Court from practicing nursing upon petition of the Board.

Accrediting of Training Programs

Sec. 12. (a) Any general hospital in regular use for patients which has a registered nurse in charge of nursing, and whose staff consists of one or more licensed physicians licensed by the State Board of Medical Examiners, may qualify as an accredited hospital for Vocational Nurse Training, provided it can and will meet requirements of the Board for the training of Vocational Nurses.

(b) Any institution which shall be qualified under Section 5, and under regulations promulgated by the Board to conduct a course for training Vocational Nurses shall apply to the Board and shall accompany said application with evidence that it is prepared to give a course of not less than twelve (12) months for the training of Vocational Nurses; such application shall be accompanied by the appropriate fee provided for in Section 9 of this Act; upon receipt of such application the Board shall cause a survey of the institution making such application to be made by a qualified representative of such Board. If in the opinion of a majority of the members of the Board, the requirements for an accredited course for training Vocational Nurses are met by such institution, such institution shall be placed on an accredited list of such accredited institutions given for training Vocational Nurses. It shall further be the duty of the Board, from time to time, to survey all courses for such training of Vocational Nurses offered within the State. Written reports of such surveys shall be submitted to the Board. If the Board shall determine as a result of such surveys that any training school, hospital or institution heretofore accredited as an institution for such training for Vocational Nurses is not maintaining the standards required by law and by the rules and regulations promulgated by the Board, notice thereof shall immediately be given to such training school, hospital or institution. If the requirements of the Board are not complied with within a reasonable time set by the Board in such notices, such institution shall be removed from the list of approved training schools, hospitals or institutions offering courses for training Vocational Nurses within this State.

Custody and use of revenues

Sec. 13. Upon and after the effective date of this Act, all moneys derived from fees, assessments, or charges under this Act, shall be paid by the Commission into the State Treasury for safe-keeping, and shall by the State Treasurer be placed in a separate fund to be available for the use of the Commission in the administration of the Act upon requisition of the Commission. All such moneys so paid into the State Treasury are hereby specifically appropriated to the Commission for the purpose of paying the salaries and expenses of all persons employed or appointed as provided herein for the administration of this Act, and all other expenses necessary and proper for the administration of this Act, including equipment and maintenance of any supplies for such offices or quarters as the Commission may occupy, and necessary traveling expenses for the Commission or persons authorized to act for it when performing duties hereunder at the request of the Commission. At the end of the calendar year, any unused portion of said funds in said special account shall be set

over and paid into the General Revenue Fund. The Comptroller shall, upon requisition of the Commission, from time to time draw warrants upon the State Treasurer for the amount specified in such requisition, not exceeding however, the amount in such fund at the time of making any requisition; provided, however, that all moneys expended in the administration of this Act shall be specified and determined by itemized appropriation in the General Departmental Appropriation Bill.

Constitutionality

Sec. 14. If any section, subsection or part of this Act shall be held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the remaining portions thereof, it being the express intention of the Legislature to enact such Act without respect to such section, subsection or a part so held to be invalid or unconstitutional. Acts 1951, 52nd Leg., p. 197, ch. 118.

Effective 90 days after June 8, 1951, date of adjournment.

Section 15 of this Act repealed conflicting laws and parts of laws to the extent of the conflict.

CHAPTER EIGHT—PHARMACY

Art. 4542a. State Board of Pharmacy to regulate practice of Pharmacy; exclusion of Communists, etc.

Officers of board; salary; bond; by-laws and regulations

Sec. 4. Said Board within thirty (30) days after appointment shall meet and organize by electing a president and vice-president and treasurer from its membership, and a secretary who may or may not be a member of the Board, whose salary shall be fixed by the Board. The secretary and treasurer shall each be required to execute a bond in the sum of Ten Thousand (\$10,000.00) Dollars for the faithful performance of his duties, payable to the State of Texas. The Board shall have the power to make by-laws and regulations, not inconsistent with the law, for the proper performance of its duties and the duties of its officers and employees, and shall have the power to employ the necessary employees to carry out the provisions of this Act. As amended Acts 1951, 52nd Leg., p. 824, ch. 469, § 1.

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 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 and no provision of this Act shall be construed to restrain them from operating or maintaining a dispensary, prescription laboratory or apothecary shop; and provided further, that no provision of this Act shall be construed to restrain a bona fide hospital or clinic from operating a dispensary or apothecary shop in order to provide services to its patients. 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 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 1951, 52nd Leg., p. 824, ch. 469, § 2.

Examinations; application; qualification; 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 practical experience in a retail pharmacy subject to the regulations of the State Board of Pharmacy. 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 applicants, 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.

No person who is a member of the Communist Party, or who is affiliated with such party, or who believes in, supports, or is a member of any group or organization that believes in, furthers or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional methods, shall be authorized to practice pharmacy in the State of Texas, or to receive a license to practice pharmacy in the State of Texas.

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

Every person admitted to practice pharmacy in the State of Texas shall, before receiving his license, make oath that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in and is neither a member of nor supports any group or organization that believes in, furthers, or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional methods.

The State Board of Pharmacy is empowered and it shall be its duty to require each member of the profession of pharmacy in the State of Texas, at the time he pays the annual fee prescribed by Section 14 of the State Pharmacy Law, to renew the affidavit prescribed in the foregoing paragraph. Any person who shall falsely make the affidavit prescribed in the foregoing paragraph shall be deemed guilty of fraudulent and dishonorable conduct, and malpractice, and shall be subject to all penalties which may be prescribed for making false affidavit. As amended Acts 1951, 52nd Leg., p. 824, ch. 469, § 3.

**Annual renewal fees; 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 Ten (\$10.00) 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, said license shall be suspended, and such person in order to be reinstated 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 1951, 52nd Leg., p. 824, ch. 469, § 4.

Permits for stores or factories; fee

Sec. 17. Every person, firm, joint stock company, partnership or corporation desiring to operate a retail pharmacy, drug store, dispensary, or apothecary shop 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, dispensary, apothecary shop 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, drug store, dispensary, apothecary shop or prescription laboratory, and any inspector, member, or official of the Board is hereby empowered to take charge of such permit pending final hearing before the Board, as to revocation of same. 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, dispensary, apothecary shop 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, dispensary, apothecary shop, 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 applications; 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 (1) permit.

Provided, however, that no provision of this Act shall be construed to apply to any hospital or clinic maintaining or operating a dispensary, apothecary shop or prescription laboratory for the care of its patients as long as a licensed pharmacist is continually employed to compound said prescriptions. As amended Acts 1951, 52nd Leg., p. 824, ch. 469, § 5.

Pharmacy, drug store, dispensary, apothecary shop or prescription laboratory defined

Sec. 19. A pharmacy, drug store, dispensary, apothecary shop, or prescription laboratory, as used in this Act, is any store or place where drugs or medicines are sold or furnished in any manner at retail or for a fee to the consumer wherein a registered pharmacist is employed.

Provided, however, that no provision of this Act shall be construed to apply to any hospital or clinic maintaining or operating a dispensary, apothecary shop or prescription laboratory for the care of its patients as long as a licensed pharmacist is continually employed to compound said prescriptions. As amended Acts 1951, 52nd Leg., p. 824, ch. 469, § 6.

Effective 90 days after June 8, 1951, date of adjournment.

Section 7 of the amendatory Act of 1951 read as follows: "If any paragraph, clause, section or subsection 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 8 repealed conflicting laws or parts of laws.

CHAPTER NINE—DENTISTRY

Art.

4551d. Rules and regulations of board
[New].

Art. 4549. Refusing examination or license; revocation of license

The Texas State Board of Dental Examiners shall have authority to refuse to examine any person or refuse to issue a license to any person for any one or more of the following causes:

(a) Proof of presentation to the Board of any dishonest or fake evidence of qualification, or being guilty of any illegality, fraud or deception in the process of examination, or for the purpose of securing a license.

(b) Proof of chronic or habitual intoxication or addiction to drugs on the part of the applicant.

(c) Proof that the applicant has been guilty of dishonest or illegal practices in or connected with the practice of dentistry.

(d) Proof of conviction of the applicant of a felony involving moral turpitude under the laws of this State or any other State or of the United States.

The Texas State Board of Dental Examiners and the District Courts of this State shall have concurrent jurisdiction and authority, after notice and hearing as hereinafter provided, to suspend or revoke a dental license for any one or more of the following causes:

(a) Proof of insanity of the holder of a license, as adjudged by the regularly constituted authorities.

(b) Proof of conviction of the holder of a license of a felony involving moral turpitude under the laws of this State or any other State or of the United States.

(c) That the holder thereof has been or is guilty of dishonorable conduct, malpractice or gross incompetency in the practice of dentistry.

(d) That the holder thereof has been or is guilty of any deception or misrepresentation for the purpose of soliciting or obtaining patronage.

(e) That the holder thereof procured a license through fraud or misrepresentation.

(f) That the holder thereof is addicted to habitual intoxication or the use of drugs.

(g) That the holder thereof employs or permits or has employed or permitted persons to practice dentistry in the office or offices under his control or management, who were not licensed to practice dentistry.

(h) That the holder thereof has failed to use proper diligence in the conduct of his practice or to safeguard his patients against avoidable infections.

(i) That the holder thereof has failed or refused to comply with any of the provisions of this Act.

(j) That the holder thereof has failed or refused to comply with the adopted and promulgated rules and regulations of the Board.

Proceedings to suspend or revoke a dental license on account of any one or more of the causes set forth in this Article shall be taken as follows:

(a) Proceedings before the Texas State Board of Dental Examiners shall be as follows:

All complaints to be considered by the Board shall be made in writing, subscribed and sworn to by the person presenting such complaint, which complaint shall set out the alleged violations of such Statutes and declaring it to be the opinion of the person presenting such complaint that the person or persons so accused have so violated said Statutes.

All complaints as received shall be presented to the Secretary of the Board or an authorized employee of the Board who shall cause copies of all complaints to be made and mailed or delivered to each member of the Board. When a complaint is made by a member of the Board, its agents or employees, the Secretary of the Board shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes. When a complaint is made by others than the members of the Board, its agents or employees, the Board or its duly authorized representative shall cause an investigation of such complaint to be made to determine the facts in such case, and if the facts as determined by such investigation, in the discretion of the Secretary of the Board, justify the docketing of such complaint for hearing before the Board, then the Secretary of the Board shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes.

The Secretary of the Board or its authorized officer or employee shall not less than ten (10) days prior to the next meeting of the Board called for the purpose of hearing and considering such complaint, mail by registered mail to the last known address of such person or persons against whom a complaint has been so docketed a notice of hearing, which notice shall contain the date, time, and place of the meeting of the Texas State Board of Dental Examiners called to consider such complaint, and such notice shall contain the alleged violations of such Statutes, and shall state that such accused person may appear and offer such evidence as is pertinent to his defense to such complaint. Such hearing shall be governed by such rules and regulations as may be prescribed by the Board, and the Board shall have the authority to subpoena and compel the attendance of such licensees or other persons deemed to have knowledge which would aid the Board in reaching a proper decision and for the enforcement of this Act. After such hearing, the Board shall enter an order in its minutes, as in the opinion of the majority of the Board the facts brought out at such hearing justify and require. Provided, however, that any order revoking or suspending such license or licenses shall be signed by a majority of such Board and by all the members of such Board present at such hearing.

If said Board shall make and enter any order revoking or suspending any license or licenses as hereinabove provided, the person or persons whose license shall have been so revoked or suspended may, within thirty (30) days after the making and entering of such order, take an appeal to the District Court of the County of the residence of the person or persons whose license shall have been so revoked or suspended, by filing an appropriate petition for such purpose. Said cause shall be placed on the docket of said Court in the name of the party or parties filing same, as plaintiff, and the Texas State Board of Dental Examiners, as defendants. It shall be the duty of said Board, upon the filing of a petition asking for an appeal and review of such proceedings of said Board by the person or persons accused, and after citation in such cause has been issued and served as in other civil cases, to prepare and transmit to such District Court upon notice from such Court a transcript of the orders hereinabove provided for, the same to be certified as true and correct by the Secretary of

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

said Board. Such District Court shall thereafter and under the rules of procedure applicable to other civil cases, proceed to set such cause for hearing as in other civil cases. Upon the hearing of such cause, if such Court shall find that the action of such Board, in revoking or suspending such license or licenses is not well taken, such Court shall by appropriate order and judgment set aside such action of said Board; but if such Court or jury shall sustain such action of said Board in revoking or suspending such license or licenses an order shall be made and entered in appropriate form sustaining and affirming the action of such Board; provided, however, that the person or persons whose license shall have been so revoked or suspended may waive the impanelling of a jury, from which order an appeal may be taken to the Court of Civil Appeals, as in other civil causes.

(b) Proceedings before the District Courts of this State shall be as follows:

It shall be the duty of the several District and County Attorneys of this State, on the request of any member of the Texas State Board of Dental Examiners or by complaint presented to any District Court of the State or county in which such alleged offense occurred, to file and prosecute appropriate judicial proceedings in the name of the State against the person or persons alleged to have so violated such Statute. Such complaint shall be made in writing and filed in the District Court of the State or county in which the alleged offense occurred, and such complaint shall distinctly set forth the charges and grounds thereof and shall be subscribed and sworn to. When such complaint is made by any County or District Attorney, as herein provided, it shall be subscribed and sworn to by the prosecutor and shall be filed with the Clerk of the Court. The Court, upon the filing of said complaint, shall order the accused dentist to show cause why his license to practice dentistry in this State shall not be suspended or revoked.

Citation therein shall be issued in the name of the State of Texas and in manner and form as in other cases and the same shall be served upon the defendant at least ten (10) days before the trial date set therein. Upon the return of said citation executed, if the defendant shall appear and deny the charge, the cause shall be docketed for trial and conducted in the name of the State of Texas against the defendant. A jury of twelve (12) men shall be summoned as in cases during term time of the Court when no regular jury is available and as prescribed by law and shall be impanelled unless waived by the defendant, and the cause shall be tried in like manner as in other civil cases. If the said accused dentist be found guilty or shall fail to appear and deny the charge after being cited as aforesaid, the Court may by proper order entered on the minutes, suspend his license for a time or revoke and cancel it entirely and may also give proper judgment of costs, from which order an appeal may be taken to the Court of Civil Appeals as in other civil cases. As amended Acts 1951, 52nd Leg., p. 427, ch. 267, § 2.

Effective 90 days after June 8, 1951, date of adjournment.

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 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 who shall offer or undertake in any manner to prescribe or make, or cause to be made, an impression of any portion of the human mouth, teeth, gums, or jaws for the purpose of diagnosing, prescribing, treating, or aiding in the diagnosing, prescribing or treating, any physical condition of the human mouth, teeth, gums or jaws, or for the purpose of constructing or aiding in the construction of any dental appliance, denture, dental bridge, false teeth, dental plate or plates of false teeth, or any substitute for human teeth.

(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 1951, 52nd Leg., p. 427, ch. 267, § 5.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 4551b. Persons not included in definition of dentistry

The definition of Dentistry as contained in Chapter 9, of Title 71 of the Revised Civil Statutes of Texas as amended shall not apply to: (1) members of the faculty of a reputable dental college or school where such faculty members perform their services for the sole benefit of such school or college; or to (2) 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; or to (3) 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 of, or have any interest whatsoever in, any dental office, practice or the receipts therefrom; nor to (4) physicians and surgeons legally authorized to practice medicine as defined by the law of this State. Nothing in this Act 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 1951, 52nd Leg., p. 427, ch. 267, § 7.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 4551d. Rules and regulations of board

The Texas State Board of Dental Examiners is hereby empowered and authorized to adopt, promulgate, and enforce such rules and regulations as the Board may deem necessary and advisable to carry out the provisions of, and not inconsistent with, Chapter 9, Title 71, of the Revised Civil Statutes of Texas as amended, and for the enforcement of

this Act; however, notice must be given at least ten (10) days in advance of any meeting called to consider the adoption of any rule, or regulation, or change therein; such notice as herein provided for shall be accomplished by publication at least once in a newspaper having general circulation in the State of Texas. Added Acts 1951, 52nd Leg., p. 427, ch. 267, § 8.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER NINE A.—DENTAL HYGIENISTS [NEW]

Art.

4551e. Regulation and licensing.

Art. 4551e. Regulation and licensing

Definitions

Section 1. The term "dental hygiene," and the practice thereof as used in this Act shall mean and is hereby defined as (a) the removal of accumulated matter, tartar, deposits, accretions or stains, except mottled enamel stains, from the natural and restored surfaces of exposed human teeth, and restorations therefor, not beyond the free gum margin, in the human mouth and the polishing of said surfaces; (b) the making of topical application of drugs to the surface tissues of the human mouth and to the exposed surfaces of human teeth; and (c) the making of Dental X-rays.

The term "dental hygienist," as used in this Act shall mean and is hereby defined as a person who practices "dental hygiene."

Qualifications

Sec. 2. A dental hygienist shall be not less than twenty (20) years of age, a citizen of the United States of America, a graduate of an accredited high school and of a recognized and accredited school or college of dentistry or dental hygiene approved by the Texas State Board of Dental Examiners in which the course of instruction shall be the equivalent of not less than two (2) terms of eight (8) months each and who shall have thereafter passed an examination given by and before the Texas State Board of Dental Examiners on subjects pertaining to dental hygiene, and who shall have complied with all of the provisions of this Act and the rules and regulations promulgated by the Texas State Board of Dental Examiners.

Supervision

Sec. 3. All work performed by a dental hygienist in the practice of dental hygiene, as defined in this Act, shall be performed under the direct supervision and in the dental office of a dentist or dentists legally engaged in the practice of dentistry in this State, by whom he or she must be employed, except where employed under the direct supervision of a dentist or dentists legally engaged in the practice of dentistry in this State, by schools, hospitals, state institutions, and public health clinics, all to be approved by the Texas State Board of Dental Examiners. It shall be unlawful for more than one dental hygienist to practice dental hygiene for one dentist at any one time, and it shall be unlawful for a dentist legally engaged in the practice of dentistry in this State to employ, under any contractual relationship whatsoever, more than one dental hygienist to practice dental hygiene at any one time. No dental office, regardless of the number of dentists practicing or offering to practice dentistry in such office, shall have employed under any contractual relationship whatsoever more than two (2) dental hygienists to practice dental hygiene therein.

Governing Board

Sec. 4. The Texas State Board of Dental Examiners is hereby designated and empowered as the official state agency on all matters concerning dental hygienists and the practice of dental hygiene, and it shall be the duty of such Board to administer the provisions of this Act. The Board shall also adopt, promulgate and enforce all rules and regulations, including rules of professional conduct for dental hygienists, as the Board may deem necessary and advisable and not inconsistent with the provisions hereof, but to carry out the purposes of this Act and for its enforcement.

Examination

Sec. 5. The Texas State Board of Dental Examiners shall hold meetings at such times and places as the Board shall designate for the purpose of examining qualified applicants for certification as dental hygienists in this State. All applicants for examination shall pay a fee of Twenty-five (\$25.00) Dollars to said Board and shall apply upon forms furnished by the Board and shall furnish such other information as the Board may in its discretion require to determine any applicant's qualifications. The Board shall have authority to employ the services of such examiners and clerks as may be needed to aid the Board in the performance of such duties. The examination shall be taken by all applicants on such subjects and operations pertaining to dentistry and dental hygiene which shall include dental anatomy, pharmacology, X-ray, ethics, jurisprudence and hygiene, and such other subjects as are regularly taught in reputable schools of dentistry and dental hygiene, as the Board in its discretion may require. The examination shall be taken orally or in writing, or by giving a practical demonstration of the applicant's skill, or by any combination of such methods or subjects as the Board may in its discretion require. The Board shall grade each applicant upon the various phases of the examination and shall report such grades to the applicant within a reasonable time after such examination, and each applicant who has satisfactorily passed all phases of the examination as determined by the Board shall be entitled to and shall be issued a certificate permitting such applicant to practice dental hygiene in the State of Texas as is defined and regulated by the law of this State.

Renewal of Certificate, Fee

Sec. 6. It shall be the duty of each dental hygienist in this State to annually apply to the Texas State Board of Dental Examiners for renewal of his certificate granted him by said Board, and to pay, in the manner and within the time prescribed by the Board in its rules and regulations in connection with such application for renewal, a fee of not less than Two (\$2.00) Dollars nor more than Twelve (\$12.00) Dollars as determined by said Board according to its needs. Upon the payment of such fee as prescribed by the Board, each dental hygienist shall receive a renewal of his certificate as a receipt for such payment, and the absence of such renewed certificate shall be prima facie evidence of the want of possession of such certificate before the Board and in any court in this State.

Dental hygienists, required to register under this Act, who fail or refuse to register and pay the annual registration fee in the manner and within the time prescribed shall not thereafter practice dental hygiene in this State, and during such time of said person's failure or refusal to register and renew his certificate and to pay the required fee, he shall be subject to the same penalties imposed by law upon any person unlawfully practicing dental hygiene. Such person may, in the discretion of the Board in each instance, be reinstated and permitted to register and renew

his certificate upon written application to such Board. Such application shall contain all facts and information which the Board may require and must be accompanied by the payment of all annual registration fees in arrears together with an additional fee of Five (\$5.00) Dollars. However, the requirements governing the payment of the annual registration fees and penalties for late registration shall not apply to certificate holders who are on active duty with the armed forces of the United States of America and are not engaged in private or civilian practice.

Deposit of Funds

Sec. 7. All fees collected by the Texas 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 the special fund known as the "Dental Registration Fund," and all expenditures from this fund of monies collected under this Act shall be on order of the Texas State Board of Dental Examiners on warrants issued by the State Comptroller for the purposes and in the amounts fixed by the Legislature; except, however, for the first biennium from and after the effective date of this Act, the Texas State Board of Dental Examiners shall have power and authority to receive, collect and to expend all such funds for the administration and enforcement of this Act.

Grandfather Clause

Sec. 8. Within ninety (90) days from and after the effective date of this Act, and not thereafter, any person of good moral character who is a citizen of the United States of America, a bona fide resident of the State of Texas, and who has been employed for a period of ten (10) years during the twelve (12) year period next preceding the effective date of this Act in the dental office of a dentist or dentist legally engaged in the practice of dentistry in this State, shall be permitted upon payment of the fee required by law to apply for and must, within two (2) years after the effective date of this Act, take and pass successfully the examination given by the Board to determine the qualifications of applicants for license as dental hygienists and to practice dental hygiene in this State. All applicants under this section shall furnish evidence satisfactory to the Board to support the claims and statements contained in such application.

Refusing Examination

Sec. 9. The Texas State Board of Dental Examiners shall have power and authority to refuse to examine any applicant or refuse to issue an original certificate or any requested renewal thereof to any person for any one or more of the following reasons:

(a) Presentation to the Board of proof of any dishonest or fake evidence of qualification or being guilty of any illegality, fraud or deception in the process of examination, or for the purpose of securing a certificate.

(b) Proof of chronic or habitual intoxication or addiction to drugs on the part of the applicant.

(c) Proof that the applicant has been guilty of dishonest or illegal practices in or connected with the practice of dentistry or dental hygiene.

(d) Proof of conviction of the applicant of a felony involving moral turpitude under the laws of this State or any other State or of the United States.

Revocation and Cancellation of Certificates

Sec. 10. The Texas State Board of Dental Examiners and the District Courts of this State shall have concurrent jurisdiction and authority, after notice and hearing as hereinafter provided, to suspend or revoke a certificate to practice dental hygiene in this State for any one or more of the following causes:

(a) Proof of insanity of the holder of a certificate, as adjudged by the regularly constituted authorities.

(b) Proof of conviction of the holder of a certificate of a felony involving moral turpitude under the laws of this State or any other State or of the United States.

(c) That the holder thereof has been or is guilty of dishonest or illegal practices in or connected with dentistry or dental hygiene or has been or is guilty of dishonorable conduct, malpractice or gross incompetency in the practice of dental hygiene.

(d) That the holder thereof has been or is guilty of advertising or soliciting patronage in any manner.

(e) That the holder thereof procured a certificate through fraud or misrepresentation.

(f) That the holder thereof is addicted to habitual or chronic intoxication or the use of drugs.

(g) That the holder thereof has practiced dental hygiene other than under the direct supervision and in the office of a dentist or dentists legally practicing dentistry in this State.

(h) That the holder thereof has practiced dental hygiene in any place where more than one dental hygienist was permitted to practice dental hygiene for more than one dentist or has practiced dental hygiene in any dental office where more than two (2) dental hygienists practice or offer to practice dental hygiene.

(i) That the holder thereof has failed to use proper diligence in the practice of dental hygiene or has been grossly inefficient therein.

(j) That the holder thereof permits or has permitted his or her name to appear on any door, window, stationery, sign, placard, professional card or other advertising media or to allow his or her name to be used in any manner by any advertising media.

(k) That the holder thereof has failed or refused to comply with the adopted and promulgated rules and regulations of the Board.

(l) That the holder thereof has failed or refused to comply with any of the laws of this State pertaining to dentistry or the provisions of this Act.

Proceedings, Board and Court

Sec. 11. Proceedings to suspend or revoke a certificate for the practice of dental hygiene on account of any one or more of the causes set forth in this Article shall be taken as follows:

(a) Proceedings before the Texas State Board of Dental Examiners shall be as follows:

All complaints to be considered by the Board shall be made in writing, subscribed and sworn to by the person presenting such complaint, which complaint shall set out the alleged violations of such Statutes, or rules and regulations of the Board, and declaring it to be the opinion of the person presenting such complaint that the person or persons so accused have so violated said Statutes or rules and regulations of the Board.

All complaints as received shall be presented to the Secretary of the Board or an authorized employee of the Board who shall cause copies of all complaints to be made and mailed or delivered to each member of the Board. When a complaint is made by a member of the Board, its agents or employees, the Secretary of the Board shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered mail to the accused person, under the jurisdiction of the Texas State Board of Dental Examiners, charged with having violated such Statutes or rules and regulations of the Board. When a complaint is made by

others than the members of the Board, its agents or employees, the Board or its duly authorized representative shall cause an investigation of such complaint to be made to determine the facts in such case; and if the facts as determined by such investigation, in the discretion of the Secretary of the Board, justify the docketing of such complaint for hearing before the Board, then the Secretary of the Board shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes or rules and regulations of the Board.

The Secretary of the Board or its authorized officer or employee shall not less than ten (10) days prior to the next meeting of the Board called for the purpose of hearing and considering such complaint, mail by registered mail to the last known address of such person or persons against whom a complaint has been so docketed a notice of hearing, which notice shall contain the date, time, and place of the meeting of the Texas State Board of Dental Examiners called to consider such complaint, and such notice shall contain the alleged violations of such Statutes or rules and regulations of the Board, and shall state that such accused person may appear and offer such evidence as is pertinent to his or her defense to such complaint. Such hearing shall be governed by such rules and regulations as may be prescribed by the Board, and the Board shall have the authority to subpoena, and compel the attendance of such persons deemed to have knowledge which would aid the Board in reaching a proper decision and for the enforcement of this Act. After such hearing, the Board shall enter an order in its minutes, as in the opinion of the majority of the Board the facts brought out at such hearing justify and require. Provided, however, that any order revoking or suspending such certificate or certificates shall be signed by a majority of such Board and by all the members of such Board present at such hearing.

If said Board shall make and enter any order revoking or suspending any certificate or certificates as hereinabove provided, the person or persons whose certificate shall have been so revoked or suspended may, within thirty (30) days after the making and entering of such order, take an appeal to the District Court of the county of the residence of the person or persons whose certificate shall have been so revoked or suspended, by filing an appropriate petition for such purpose. Said cause shall be placed on the docket of said Court in the name of the party or parties filing same, as plaintiff, and the Texas State Board of Dental Examiners, as defendants. It shall be the duty of said Board, upon the filing of a petition asking for an appeal and review of such proceedings of said Board by the person or persons accused, and after citation in such cause has been issued and served as in other civil cases, to prepare and transmit to such District Court upon notice from such Court a transcript of the orders hereinabove provided for, the same to be certified as true and correct by the Secretary of said Board. Such District Court shall thereafter and under the rules of procedure applicable to other civil cases, proceed to set such cause for hearing. Upon the hearing of such cause, all orders of the Board shall be valid if supported by substantial evidence and if such Court shall find that the action of such Board, in revoking or suspending such certificate or certificates, is based upon substantial evidence as provided by law, such Court shall by appropriate order and judgment affirm and sustain such action of said Board; but if such Court shall find that such action of said Board in revoking or suspending such certificate or certificates is not based upon substantial evidence, then an order

shall be made and entered in appropriate form setting aside the action of such Board.

(b) Proceedings before the District Courts of this State shall be as follows:

It shall be the duty of the several District and County Attorneys of this State, on the request of any member of the Texas State Board of Dental Examiners or by complaint presented to any District Court of the State or county in which such alleged offense occurred, to file and prosecute appropriate judicial proceedings in the name of the State against the person or persons alleged to have so violated such Statute or rules and regulations of the Board. Such complaint shall be made in writing and filed in the District Court of the State or county in which the alleged offense occurred, and such complaint shall distinctly set forth the charges and grounds thereof and shall be subscribed and sworn to. When such complaint is made by any County or District Attorney, as herein provided, it shall be subscribed and sworn to by the prosecutor and shall be filed with the clerk of the Court. The Court, upon the filing of said complaint, shall order the accused certificate holder to show cause why his or her certificate to practice dental hygiene in this State shall not be suspended or revoked.

Citation therein shall be issued in the name of the State of Texas and in manner and form as in other cases and the same shall be served upon the defendant at least ten (10) days before the trial date set therein. Upon the return of said citation executed, if the defendant shall appear and deny the charge, the cause shall be docketed for trial and conducted in the name of the State of Texas against the defendant. A jury of twelve (12) men shall be summoned as in cases during term time of the Court when no regular jury is available and as prescribed by law and shall be impanelled unless waived by the defendant, and the cause shall be tried in like manner as in other civil cases. If the said accused certificate holder be found guilty or shall fail to appear and deny the charge after being cited as aforesaid, the court may, by proper order entered on the minutes, suspend his or her certificate for a time or revoke and cancel it entirely and may also give proper judgment of costs, from which order an appeal may be taken to the Court of Civil Appeals as in other civil cases.

Records, Change of Address

Sec. 12. It shall be the duty of the Texas State Board of Dental Examiners to keep a record of all certificates issued and renewed as provided for in this Act, and it shall be the duty of each dental hygienist authorized to practice dental hygiene in this State to notify the Board of any change of address or location of his or her office or place of practicing dental hygiene and to notify such Board of any change in his or her employment or supervision in the practice of dental hygiene in this State.

The certificate provided for in this Act shall be kept prominently displayed in the office or room where such dental hygienist practices or offers to practice dental hygiene.

Certificate Required; Practice under Name Only

Sec. 13. It shall be unlawful for any person to practice or offer to practice dental hygiene in this State without having first obtained a certificate so to do from the Texas State Board of Dental Examiners authorized to grant such certificate, or to practice or offer to practice dental hygiene under any name other than that appearing on such previously granted or renewed certificate.

Accomplice Testimony

Sec. 14. Upon a trial or hearing for the violation of any of the provisions of this Act the uncorroborated testimony of an accomplice shall be sufficient to sustain and support a conviction.

Exceptions

Sec. 15. The provisions of this Act shall not apply to: (1) Dentists duly licensed and authorized to practice dentistry within this State and who are actively engaged in such practice except as provided in Section 3 of this Act; or (2) physicians and surgeons legally authorized to practice medicine as defined by the law of this State.

Practice not violative of dentistry laws

Sec. 16. Any person legally engaged in the practice of Dental Hygiene as defined in this Act shall not be considered in violation of the laws of Texas regulating the practice of dentistry.

Courses of study; law not applicable to University School of Dentistry

Sec. 17. Section 20 of Article 5, of House Bill No. 426, Acts of the Regular Session of the 52nd Legislature,¹ same being limitation on courses of study, is hereby declared not applicable to The University of Texas School of Dentistry.

¹ Vernon's Texas Session Laws, ch. 499, p. 1461.

Penalty

Sec. 18. Any person who shall violate any provision of this Act shall be fined not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or be confined in jail from one (1) month to one (1) year, or both. Each day of such violation shall be a separate offense.

Partial invalidity

Sec. 20. If any Article, section, sub-section, sentence, clause, phrase, word or combination of words 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, phrase, word or combination of words hereof, irrespective of the fact that any one or more of the sections, sub-sections, sentences, clauses, phrases or words be declared unconstitutional. Acts 1951, 52nd Leg., p. 843, ch. 475.

Effective 90 days after June 8, 1951, date of adjournment.

Section 19 of the Act of 1951 repealed conflicting laws or parts of laws.

CHAPTER TEN—OPTOMETRY**Art. 4561. To record license**

It shall be unlawful for any person to practice optometry within the limits of this State who has not registered and recorded his license in the Office of the County Clerk of the county in which he resides, and in each county in which he practices, together with his age, post-office address, place of birth, subscribed and verified by his oath. The fact of such oath and record shall be endorsed by the County Clerk upon the license. The absence of record of such license in the office of the County Clerk shall be prima-facie evidence of the lack of the possession of such

license to practice optometry. As amended Acts 1951, 52nd Leg., p. 350, ch. 221, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 6 of the amendatory Act of 1951 repealed all conflicting laws and parts of laws. Section 7 provided that 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 any re-

maining portions 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, sentences, clauses or phrases thereof are declared unconstitutional.

Art. 4562. Optometry register

Each County Clerk in this State shall purchase a book of suitable size, to be known as the 'Optometry Register' of such county, and set apart at least one (1) full page for the registration of each optometrist, and record in said optometry register the name and record of each optometrist who presents for record a license or certificate issued by the State Board of Examiners in Optometry. The County Clerk shall receive One Dollar (\$1) for each document registered, as provided in this Article, which shall be his full compensation for all duties herein required. When an optometrist shall have his license revoked, suspended, or cancelled, said County Clerk, upon being notified by the Board, shall make a note of the fact beneath the record in the optometry register, which entry shall close the record and be prima-facie evidence of the fact that the license has been so cancelled, suspended or revoked. The County Clerk of each county shall, upon the request of the Secretary of the Board, certify to the Board of Examiners a correct list of the optometrists then registered in the county, together with such other information as the Board may require. As amended Acts 1951, 52nd Leg., p. 350, ch. 221, § 2.

Art. 4565. Fees and expenses

The Board shall charge a fee of Thirty-five Dollars (\$35) for examining an applicant for license, which fee must accompany the application. If the applicant who, because of failure to pass the examination, be refused a license, he shall be permitted to take a second examination upon payment of Twelve Dollars and Fifty Cents (\$12.50), provided the second examination is taken within a period of one (1) year. The fee for issuing a license shall be Twenty-five Dollars (\$25) to be paid to the Secretary of the Board. If anyone successfully passing the examination and meeting the requirements of the Board has not paid the fee for issuance of a license within ninety (90) days after having been notified by registered mail at the address given on his examination papers, or at the time of the examination that he is eligible for same, such person shall by his own act have waived his right to obtain his license, and the Board may at its discretion refuse to issue such license until such person has taken and successfully passed another examination.

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 shall be applied, by order of the Board, to compensate members of said Board. The compensation of the members of the Board shall be a per diem of Ten Dollars (\$10) per day for each day they are actually engaged in performing their duties; provided however, they shall not draw compensation for more than forty (40) days in any one (1) fiscal year, and in addition to the per diem provided for herein, they shall be entitled to their actual traveling expenses in performance of their duties. Each Board member shall make out, under oath, a complete statement of

the number of days engaged and the amount of his expenses when presenting same for payment.

The Secretary of the Board shall receive compensation to be set by the Board exclusive of necessary expenses in the performance of his duties.

On August 31st of each year, all money received from annual renewal fees in excess of Ten Thousand Dollars (\$10,000) remaining in said fund derived from said annual renewal fees shall be deposited in the General Revenue Fund of the State Treasury, and no appropriation shall ever be made from the State Treasury for any expenditure made necessary by this law. As amended Acts 1951, 52nd Leg., p. 350, ch. 221, § 3.

Art. 4565—a. Annual renewal fee—Certificate—Cancellation of license for nonpayment—Lost or destroyed license—Removal by persons in armed service

On or before the first day of January of each year, every licensed optometrist in this State shall pay to the Secretary-treasurer of the Texas State Board of Examiners in Optometry an annual renewal fee of Twenty Dollars (\$20) for the renewal of his license to practice optometry for the current year. On receipt of said renewal fee, the Board shall issue an annual renewal certificate bearing the number of his license, the year for which renewed, and such other information for the records of the Board as said Board may deem necessary for the proper enforcement of this Act. When an optometrist shall fail to pay his annual renewal fee by March 1st of each year, it shall be the duty of the Board to notify such optometrist by registered mail at his last known address that said annual renewal fee is due and unpaid. Provided, that if said annual renewal fee is not paid within sixty (60) days from the date of mailing of such notice, the Board shall then cancel said license. The Board shall notify the County Clerk of the county in which such license may have been recorded of such cancellation, and such clerk, upon receipt of such notice from said Board, shall enter upon the optometry register of such county the fact that such license has been cancelled for nonpayment of annual renewal fee and shall notify the Board in writing that such entry has been made. Practicing optometry 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 optometry without a license. After the Board has cancelled a license as provided for in this Article, the Board may thereafter, in its discretion, refuse to issue a new license until such optometrist whose license has been cancelled for nonpayment of annual renewal fee, has passed the regular examination for license as provided for by this Act.

If any license issued under this law shall be lost or destroyed, the holder of said license shall make an affidavit of its loss or destruction, and that he is the same person to whom such license was issued, and such other information as may be desired by the Board, and shall, upon payment of a fee of Two Dollars and Fifty Cents (\$2.50) be granted a license under this law.

Any licensed optometrist whose renewal certificate 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, the United States Maritime Service or the State Militia called into service or training or education under the supervision of the United States, preliminary to induction into the military service, may have his renewal certificate reinstated without paying any lapsed renewal fee or registration fee, or without passing an

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 Examiners in Optometry 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 1951, 52nd Leg., p. 350, ch. 221, § 4.

CHAPTER ELEVEN—CHIROPODY

Article 4567. Definitions

Any person shall be regarded as practicing chiropody within the meaning of this law, and shall be deemed and construed to be a chiropodist, who shall treat or offer to treat any disease or disorder, physical injury or deformity, or ailment of the human foot by any system or method and charge therefor, directly or indirectly, money or other compensation, or who shall publicly profess or claim to be a chiropodist, podiatrist, pedicurist, foot specialist, doctor or use any title, degree, letter, syllable, word or words that would tend to lead the public to believe such person was a practitioner authorized to practice or assume the duties incident to the practice of chiropody. As amended Acts 1951, 52nd Leg., p. 219, ch. 132, § 1.

Emergency. Effective May 3, 1951.

Sections 10-12 read as follows:

"Sec. 10. Saving Clause. 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 the Act, but the remainder of the Act shall be given effect as if said invalid, unconstitutional, or inoperative section, or any 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, or unconstitutional, or inoperative, this shall not affect the validity of any other penalty, right or remedy created or given by either the whole Act, or in the section thereof containing such invalid, unconstitutional, or inoperative part; and if any exception to, or any limi-

tation upon, any general provision herein contained shall be held to be unconstitutional or invalid, the general provision shall, nevertheless, stand effective and valid, as if the same had been enacted without such limitation or exceptions.

"Sec. 11. Conflicting Civil Statutes Repealed. That all laws and parts of laws of a civil nature in conflict with the provisions of this Act be, and they are hereby repealed, except that Articles 4568, 4573 and 4574, Revised Civil Statutes of Texas, 1925, are not repealed.

"Sec. 12. Penal Laws Not Repealed. Nothing in this Act shall repeal, modify, or in any way affect any existing law, or part of law, now appearing in the Penal Code or the Code of Criminal Procedure of this State, except for the amendment of Articles 778, 778a and 779 of the Penal Code."

Art. 4568. State Board of Chiropody Examiners; appointment; terms of members; oath; bond of secretary-treasurer; meetings; regulations and by-laws; powers; records

Laws 1951, ch. 132, § 11, in repealing laws in conflict with that Act, provided that this article was not repealed.

Art. 4569. Examination grades; fee; subjects; re-examination

All applicants for license to practice chiropody in this State under the provisions of this Act, not otherwise licensed under the provisions of law, must successfully pass an examination by said Texas State Board of Chiropody Examiners. The Texas State Board of Chiropody Examiners is authorized to adopt and enforce rules of procedure not inconsistent with the statutory requirements. The examinations shall be written or practical and in the English language, and all applicants that possess the qualifications required for an examination and who shall pass the examinations prescribed with a general average of seventy-five per cent (75%) in all subjects and not less than sixty per cent (60%)

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

in any one subject shall be issued a license by the Texas State Board of Chiropody Examiners to practice chiropody in this State. The subjects the applicant must be examined in are anatomy, chemistry, dermatology, diagnosis, materia-medica, pathology, physiology, bacteriology, orthopedics and chiropody, limited in their scope to ailments of the human foot. The Board shall determine the credit to be given on the answers turned in on the subjects in which examined and the discretion of the Board on the examinations shall be final. If any applicant, because of failure to pass the required averages in the examination shall be refused a license, the applicant shall be permitted a subsequent examination at a regular session of the Board without fee within eighteen (18) months from the date of the original examination but not thereafter. All applicants shall pay to the Secretary-Treasurer of the Texas State Board of Chiropody Examiners an examination fee of Forty Dollars (\$40) at least fifteen (15) days before the dates of the regular examinations. Applicants who fail to satisfactorily pass an examination and are refused a license for such failure, shall be entitled to one (1) re-examination without payment of an additional examination fee, provided this first re-examination is taken within eighteen (18) months after date of the original examination. All applicants shall be required to pay the regular examination fee of Forty Dollars (\$40) for all subsequent re-examinations. All examinations or re-examinations shall be in all subjects as provided for in this Act. The Secretary of the Board shall report to each applicant the grade made in each subject and the general average on each examination within sixty (60) days from the date of the examination. . As amended Acts 1951, 52nd Leg., p. 219, ch. 132, § 2.

Emergency. Effective May 3, 1951.

Art. 4570. Application for license

All applicants for license to practice chiropody in this State, not otherwise licensed under the provisions of law, shall present satisfactory evidence to the State Board of Chiropody Examiners that such applicants have attained the age of twenty-one (21) years, are of good moral character and are free of all contagious and communicable diseases, and furnish a certified certificate of health to that effect, and are citizens of the United States of America, and who are graduates of a recognized high school with credits sufficient and acceptable to enter the state university of the state in which the high school graduation was attained, or the University of Texas, without condition toward a Bachelor's Degree, and the applicant shall have completed at least thirty (30) semester hours of college courses acceptable at the time same was completed, for credit on a Bachelor's Degree at the University of Texas, and shall present satisfactory evidence of graduation from a bona fide reputable school of chiropody in the form of a diploma which has conferred the degree of Doctor of Surgical Chiropody. Such chiropody schools may be considered reputable, within the meaning of this Act, whose course of instruction shall embrace at least four (4) terms of at least eight (8) months each, and which meets the approval of the State Board of Chiropody Examiners. All educational attainments or credits for evaluation within the meaning of this Act, or applicable under this law, shall have been completed within the geographical boundaries of the United States, and no educational credits attained in any foreign country that are not acceptable to the University of Texas toward a Bachelor's Degree, shall be acceptable to the State Board of Chiropody Examiners. Candidates for a license to practice chiropody in Texas shall make an application, in writing, on a form prescribed by the Board, and all credits and infor-

mation verified by affidavit contained in the form. The provisions of this Article shall not affect students now enrolled in recognized schools or colleges of chiropody, or for a period of one (1) year from the date of this Act becoming law. As amended Acts 1951, 52nd Leg., p. 219, ch. 132, § 3.

Emergency. Effective May 3, 1951.

Art. 4571. Annual renewal fee; lost or destroyed license; display of license and certificate

It shall be the duty of the Secretary-Treasurer of the Texas State Board of Chiropody Examiners on or before August first of each year to notify, by mail, all Texas licensed Chiropodists at their last known address that the annual license renewal fee is due on September first of each year. Every registered Chiropodist shall renew his license on or before September first of each year by the payment of an annual license renewal fee of Twenty Dollars (\$20) to the Secretary-Treasurer of the Texas State Board of Chiropody Examiners. If such renewal fee is not paid on or before December first, the delinquent licensee shall be notified by mail at his last known address by the Secretary-Treasurer that such fee is due and unpaid and a delinquent penalty of Twenty Dollars (\$20) is assessed and shall be paid on or before January first. If such fees are not paid by January first, it shall be the duty of the Texas State Board of Chiropody Examiners to suspend or revoke the said license for nonpayment of the annual renewal and delinquent fees for the current year. The Board shall notify the district clerk of the county in which such license may have been recorded and such clerk, upon receipt of notification from said Board, shall enter upon the chiropody register of such county the fact that such license is suspended or revoked for nonpayment of the annual renewal fee, and shall notify the Board in writing that such entry has been made. Practicing chiropody without an annual renewal certificate for the current year, as provided herein, shall have the same force and effect and subject to all penalties of practicing chiropody without a license. After the Board has declared a license suspended or revoked, as provided for in this Act, the Board may thereafter in its discretion refuse to reinstate such license or issue a new license until such chiropodist, whose license has been declared suspended or revoked for nonpayment of annual renewal fee, has passed a regular examination for license. Any license issued by this Board, that may be lost, destroyed or stolen from the legally qualified and authorized person to whom it was issued, shall be reported to the Secretary-Treasurer of the State Board of Chiropody Examiners, in affidavit form and such affidavit shall set forth detailed information as to its loss, destruction or theft; giving dates, place and circumstances. A duplicate license shall be issued upon regular application of the owner of the original license and payment of the fee of Ten Dollars (\$10) to the Board for such license; provided however that the Board shall not issue a duplicate license until sufficient evidence by the owner of the original license has been submitted and proven to be lost, and that the records of the Board show a license had been issued and being in full force and effect at the time of such loss, destruction or theft.

Recording of license

Each district clerk in this State shall purchase a book of suitable size to be known as the 'Chiropody Register' and set apart at least one (1) full page for the registration of each chiropodist and record in said chiropody register the name and address of each chiropodist who presents for record a license or certificate issued by the Texas State Board of Chiropody Examiners. The district clerk shall receive One Dollar (\$1)

for each document registered as provided in this Article, which shall be his full compensation for all duties herein required. When a chiropodist shall have his license revoked, said district clerk, upon being notified by the Texas State Board of Chiropody Examiners, shall make a note of the fact beneath the record in the chiropody register which entry shall close the record. On the first day of January in each year, said district clerk shall, upon the request of the Texas State Board of Chiropody Examiners, certify to the Secretary-Treasurer of the said Board a correct list of the chiropodists then registered in the county, together with such other information that the said Board may require. The absence of record of such license in the district clerk's office shall be prima-facie evidence of the lack of possession of such license to practice chiropody.

Exhibit of License and Renewal Certificate

Every person licensed by the State Board of Chiropody Examiners to practice in the State of Texas shall conspicuously display both his license and an annual renewal certificate for the current year of practice in the place or office wherein he practices and shall be required to exhibit such license and renewal certificate to a representative of the Board upon such representative's official request for its examination or inspection.

Any licensed chiropodist whose license has been suspended or revoked or whose annual renewal certificate has expired while he has been engaged in Federal service or on active duty with the Army of the United States, the United States Navy, the United States Marine Corps, the United States Coast Guard, the United States Air Force, or the United States Maritime Service or the State Militia, called into service or training of the United States of America or in the training or education under the supervision of the United States preliminary to induction into the military service, may have his license renewed without paying any lapsed renewal 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 Chiropody Examiners 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 1951, 52nd Leg., p. 219, ch. 132, § 4.

Emergency. Effective May 3, 1951.

Art. 4572. Repealed. Acts 1951, 52nd Leg., p. 219, ch. 132, § 5. Eff. May 3, 1951.

Art. 4573, 5474

Laws 1951, ch. 132, § 11, in repealing laws in conflict with that act, provided that this article was not repealed.

Art. 4575. Exceptions

This law shall not apply to the physicians licensed by the State Board of Medical Examiners, nor to surgeons of the United States Army, Navy and United States Public Health Service, when in actual performance of their official duties. Provided, further, that nothing in this Act shall prohibit the recommendation, advertising or sale of corrective shoes, arch supports or similar mechanical appliances, foot remedies by manufacturers, wholesalers or retail dealers. Nothing in this Act shall apply to bona fide members of an established church for the purpose of ministering or offering to minister to the sick or suffering by prayer as set forth in the principles, tenets, or teachings of the church of which

they are bona fide members. As amended Acts 1951, 52nd Leg., p. 219, ch. 132, § 6.

Emergency. Effective May 3, 1951.

CHAPTER FOURTEEN—GROUP HOSPITAL SERVICE

Art. 4590a. Repealed. Acts 1951, 52nd Leg., p. 868, ch. 491, § 4, eff. Sept. 7, 1951.

CHAPTER SIXTEEN—BASIC SCIENCES

Article 4590c. Basic science law

Requirements for certificate; temporary license

Sec. 7. No certificate shall be issued by the Board unless the person applying for it submits evidence, satisfactory to the Board, (1) that he is a citizen of the United States; (2) that he is not less than nineteen (19) years of age; (3) that he is a person of good moral character; (4) that he was graduated by a high school accredited by the State Committee on Classified and Accredited Schools, or a school of equal grade, or that he possesses educational qualifications equivalent to those required for graduation by such an accredited high school; (5) he must have completed sixty (60) semester hours of college courses which would be acceptable at the time of completing same at The University of Texas on a Bachelor of Arts Degree or a Bachelor of Science Degree; and (6) that he has a comprehensive knowledge of the basic sciences as shown by his passing the examination given by the Board as by this Act¹ required. This shall not be construed to prevent the issue of certificates under the provisions of Section 8 of this Act. Provided, however, the Secretary may issue a temporary license to practice medicine to an applicant only after he has filed his completed application with the Secretary, and that all of the other requirements as required for a permanent license are complied with, such temporary license shall be valid only until the date of the next Board Meeting, and at that date, the temporary license automatically expires and is of no further effect. If the applicant fails the examination, no further temporary license shall be issued until he has successfully passed the examination, or is eligible for and has been granted reciprocity. As amended Acts 1951, 52nd Leg., p. 755, ch. 411, § 1.

¹ This article and Vernon's Ann.P.C. arts. 160—a, 160—b, 742—a to 742—c, 744—a, 744—b.

Emergency. Effective June 15, 1951.

Section 2 of the amendatory Act of 1951 read as follows: "Saving Clause. 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 re-

maining sections, or parts of sections of the Act, but the remainder of the Act shall be given effect as if said invalid, unconstitutional, or inoperative section, or any part of section or provision, had not been included."

Practice without certificate forbidden

Sec. 11.

1. It shall be the duty of all persons now lawfully qualified and engaged in the practice of naturopathy in this State, or who shall hereafter be licensed for such practice by the State Board of Naturopathic Examiners, to be re-registered as such practitioners with the State Board of Naturopathic Examiners on or before March 1st of each calendar year. Each person so re-registering shall pay to said State Board of

Naturopathic Examiners an annual re-registration fee of not less than Five Dollars (\$5) and not more than Twenty-five Dollars (\$25), said Board being hereby given the authority and duty to determine the amount of such re-registration fee for each coming year on or before December 15th of each year, and to mail notices thereon each year by that date. Upon receipt of such re-registration fee, 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 naturopathy in this State, shall issue to the applicant an annual re-registration certificate or receipt certifying that he has paid the required fee; provided, that the payment of such fee, and the issuance of such receipts therefor, shall not entitle the holder thereof to lawfully practice naturopathy within the State of Texas unless he has in fact been previously licensed as such practitioner by the State Board of Naturopathic 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 naturopathy, such receipt alone showing payment of the annual re-registration fee required by this chapter shall not be treated as evidence that the holder thereof is lawfully entitled to practice naturopathy. As amended Acts 1951, 52nd Leg., p. 114, ch. 69, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER EIGHTEEN—IDENTIFICATION OF SYSTEM OF HEALING [NEW]

Art.

4590e. Healing Art Identification Act.

Art. 4590e. Healing Art Identification Act

Title

Section 1. This Act shall be known as the Healing Art Identification Act. The provisions of this Act shall not affect or limit in any way the application or use of the principles, tenets, or teachings of any established church in the ministrations to the sick or suffering by prayer, without the use of any drug or material remedy, provided sanitary and quarantine laws and regulations are complied with; and provided, further, that all those so ministering or offering to minister to the sick or suffering by prayer shall refrain from maintaining offices, except for the purpose of exercising the principles, tenets, or teachings of the church of which they are bona fide members.

The Healing Art Defined

Sec. 2. For the purpose of this Act, the healing art includes any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.

Healing Art Identifications

Sec. 3. Every person licensed to practice the healing art heretofore or hereafter by either the Texas State Board of Medical Examiners, the State Board of Dental Examiners, the Texas Board of Chiropractic Examiners, the Texas State Board of Examiners in Optometry, the State Board of Chiropody Examiners and the State Board of Naturopathic Examiners shall in the professional use of his name on any sign, pamphlet,

stationery, letterhead, signature, or on any other such means of professional identification, written or printed, designate in the manner set forth in this Act the system of the healing art which he is by his license permitted to practice. The following are the legally required identifications, one of which must be used by practitioners of the healing art:

(1) If licensed by the Texas State Board of Medical Examiners on the basis of the degree Doctor of Medicine: physician and/or surgeon, M. D.; doctor, M. D.; doctor of medicine; M. D.

(2) If licensed by the Texas State Board of Medical Examiners on the basis of the degree Doctor of Osteopathy: physician and/or surgeon, D. O.; Osteopathic physician and/or surgeon; doctor, D. O.; doctor of osteopathy; osteopath; D. O.

(3) If licensed by the State Board of Dental Examiners: dentist; doctor, D. D. S.; doctor of dental surgery; D. D. S.; doctor of dental medicine, D. M. D.

(4) If licensed by the Texas Board of Chiropractic Examiners: chiropractor; doctor, D. C.; doctor of Chiropractic; D. C.

(5) If licensed by the Texas State Board of Examiners in Optometry: optometrist; doctor, optometrist; doctor of optometry; O. D.

(6) If licensed by the State Board of Chiropody Examiners: chiropodist; doctor, D. S. C.; doctor of surgical chiropody; D. S. C.

(7) If licensed by the State Board of Naturopathic Examiners: naturopathic physician; physician, N. D.; doctor of naturopathy; N. D.; doctor, N. D.

Other persons using title "doctor"

Sec. 4. Any person not otherwise covered by the provisions of this Act, and not given herein a means of identification shall, in using the title "doctor" as a trade or professional asset, or on any sign, pamphlet, stationery, letterhead, signature, or any other manner of professional identification, designate under what authority such title is used, or what college or honorary degree gave rise to its use, in the same manner as practitioners of the healing arts are required under this Act to identify themselves.

Enforcement

Sec. 5. It shall be the duty and obligation of the several district and county attorneys, upon the request of any of the healing art licensing boards named in Section Three to file and prosecute appropriate judicial proceedings in the name of the State of Texas in the district Court of the county in which a violation occurs against any licensed practitioner of the healing art who fails to comply with the identification requirements of Section Three.

Penalties

Sec. 6. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as follows:

(1) for the first violation, a fine of One Hundred Dollars (\$100).

(2) for the second violation, a fine of Five Hundred Dollars (\$500).

(3) upon conviction for the third violation of this Act, a fine of One Thousand Dollars (\$1,000), or the license of the violator to practice the healing art shall be revoked. The district Court in which the conviction occurs shall so notify the licensing board which issued the license.

Partial unconstitutionality

Sec. 8. 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 any remaining portions of this Act. The Legislature hereby declares that it would have passed this Act, and each

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

section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof are declared unconstitutional. Acts 1951, 52nd Leg., p. 265, ch. 154.

Effective 90 days after June 8, 1951, date of adjournment.

Section 7 of the Act of 1951 repealed conflicting laws or parts of laws.

Title of Act:

An Act to protect the public health by requiring that all persons licensed to practice the healing art in the State of Texas must in the professional use of their name iden-

tify the system of the healing art which they are licensed to practice; to provide for the enforcement of this Act, and penalties for its violation; repealing all laws or parts of laws in conflict; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 265, ch. 154.

TITLE 72—HOLIDAYS—LEGAL

Article 4591. 4606, 2939 Enumeration

The first day of January, the 19th day of January, the 22nd day of February, the 2nd day of March, the 21st day of April, the 3rd day of June, the 4th day of July, the 1st Monday in September, the 12th day of October, the 11th day of November, the last Thursday in November, and the 25th day of December, of each year, and every day on which an election is held throughout the State, are declared legal holidays, on which all the public offices of the State may be closed and shall be considered and treated as Sunday or the Christian Sabbath for all purposes regarding the presenting for the payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes placed by the law upon the footing of bills of exchange. As amended Acts 1951, 52nd Leg., p. 280, ch. 163, § 1.

Section 2 of the amendatory Act of 1951 provides that the Act shall not take effect until January 1, 1952.

*

INSURANCE CODE

CHAPTER 491—S. B. NO. 236

An Act arranging the Statutes of this State affecting the business of insurance in appropriate Chapters and Articles into a consistent whole and under a single code; making such editorial changes in context as are necessary to that accomplishment; preserving the substantive law as it existed immediately before the passage of this Act except as to laws affecting the business of insurance passed at the Regular Session of the 52nd Legislature, and as to such laws thus passed, preserving same and each of them, and containing all details appropriate to achievement of those purposes; providing for severability of the different Articles or parts of Articles so that unconstitutionality of one or more shall not affect the remainder of the Act; repealing in Section 4 hereof, certain Statutes and Acts together with all laws or parts of laws in conflict herewith; and declaring an emergency.

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CHAPTER ONE

THE BOARD, ITS POWERS AND DUTIES

Art.

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Art. 1.01. Short Title

This Act constitutes and shall be known as the Insurance Code.

Art. 1.02. Board of Insurance Commissioners

(a) There shall be a Board of Insurance Commissioners of this State, which shall consist of the Life Insurance Commissioner, the Fire Insurance Commissioner, and the Casualty Insurance Commissioner. The Life

Insurance Commissioner shall be Chairman of the Board. Each Commissioner shall be appointed by the Governor with the advice and consent of the Senate.

(b) All the powers, duties and prerogatives heretofore vested in or devolving upon the Commissioner of Insurance or the State Insurance Commission or any member thereof, as now constituted by statute just prior to the effective date of this code, shall hereafter continue in and be had, enjoyed, and exercised by the Board of Insurance Commissioners. The duties heretofore and now placed upon and the powers and privileges heretofore and to be exercised by the State Fire Marshal shall continue in and be had, enjoyed, and exercised by the Fire Insurance Commissioner.

Art. 1.03. Terms of Office

The Commissioners in office at the effective date of this code shall be the present members of the Board and shall continue in office until the 10th day of February of the years in which their present respective terms expire, and until their successors are appointed and qualified. At the expiration of such present terms the Governor shall appoint a Casualty Insurance Commissioner, whose term of office shall expire on February 10, 1959; a Fire Insurance Commissioner, whose term shall expire on February 10, 1961; and a Life Insurance Commissioner, whose term shall expire on February 10, 1963. Thereafter, the regular terms of each of such offices shall run for six years from the date of its expiration so that each membership shall run for six years and so that one membership of said Board shall expire every two years. Vacancies occurring in any such office during any term shall, with the advice and consent of the Senate, be filled by appointment of the Governor, which appointment shall extend only to the end of the unexpired term.

Art. 1.04. Duties of the Commissioners

Generally, the Life Insurance Commissioner shall have supervision of matters relating to life insurance, to the examination and to the chartering of companies, certificates of authority, and as to the solvency of persons and corporations engaged in the insurance business; The Fire Insurance Commissioner shall have general supervision of matters relating to fire and allied lines, marine and inland marine insurance; and the Casualty Insurance Commissioner shall have general supervision of matters relating to casualty, motor vehicle, workmen's compensation, fidelity, guaranty, title, and miscellaneous insurance. The Board shall nevertheless operate as a whole, and a majority vote of the members shall be necessary to official action.

Art. 1.05. Bond

Each of the members of the Board of Insurance Commissioners shall, before entering upon the duties of his office, give a good bond to the State of Texas, executed by a surety company licensed to do business in the State of Texas, in the sum of Five Thousand (\$5,000.00) Dollars, to be approved by the Governor, conditioned upon the faithful discharge of the duties of his office.

Art. 1.06. Compensation

Compensation to be paid the Commissioners shall be such sums as are provided for by the appropriation bills from time to time.

Art. 1.07. Industrial Accident Board

Nothing in this code shall be construed to in any manner affect the duties now imposed by law on the Industrial Accident Board or to take from said board the performance of the duties now imposed on said board by law.

Art. 1.08. Clerks

Each Commissioner may appoint such clerks as the work of his office may require. All clerks, including the Chief Clerk, shall be removable at the will of the appointing Commissioner.

The Chairman of the Board may appoint a Chief Clerk who shall possess all the power and perform all the duties attached by law to the office of the Chairman during the necessary absence of the Chairman, or his inability to act from any cause. The Chairman shall be responsible for the acts of his Chief Clerk, who shall, before entering upon the duties of his position, take the oath required of the Chairman; he may also be required by the Chairman to enter into bond with security, payable to said Chairman, for the faithful performance of the duties of his position.

Art. 1.09. Ineligibility

No person who is a director, officer or agent of, or directly or indirectly interested in any insurance company, except as insured, shall be a member of the Board of Insurance Commissioners or accept appointment or be appointed as an employee under and by any member of the Board.

Art. 1.10. Duties of the Board

In addition to the other duties required of the Board, it shall perform duties as follows:

1. **Shall Execute the Laws.**—See that all laws respecting insurance and insurance companies are faithfully executed.

2. **File Articles of Incorporation and Other Papers.**—File and preserve in its office all acts or articles of incorporation of insurance companies and all other papers required by law to be deposited with the Board and, upon application of any party interested therein, furnish certified copies thereof upon payment of the fees prescribed by law.

3. **Shall Calculate Reserve.**—For every company transacting any kind of insurance business in this State, for which no basis is prescribed by law, the Board shall calculate the reinsurance reserve upon the same basis prescribed in Article 6.01 of this code as to companies transacting fire insurance business.

4. **To Calculate Reinsurance Reserve.**—On the thirty-first day of December of each and every year, or as soon thereafter as may be practicable, the Board shall have calculated in its office the reinsurance reserve for all unexpired risks of all insurance companies organized under the laws of this State, or transacting business in this State, transacting any kind of insurance other than life, fire, marine, inland, lightning or tornado insurance, by taking fifty per cent of the gross premiums on all unexpired risks that have one year or less to run and a pro rata of all premiums received on risks that have more than one year to run.

5. **When Company's Capital is Impaired.**—Having charged against a company other than life, the reinsurance reserve, as prescribed by the laws of this State, and adding thereto all other debts and claims against the company, the Board shall, in case it finds the capital stock of the company impaired to the extent of twenty (20%) per cent, give notice to the company to make good its whole capital stock within sixty (60)

days, and if this is not done, the Board shall require the company to cease to do business within this State, and shall thereupon, in case the company is organized under authority of the State, immediately institute legal proceedings to determine what further shall be done in the case.

6. **Shall Publish Results of Investigation.**—The Board shall publish the result of its examination of the affairs of any company whenever the Board deems it for the interest of the public.

7. **Shall Suspend or Revoke Certificate.**—The Board shall suspend the entire business of any company of this State, and the business within this State of any other company, during its non-compliance with any provision of the laws relative to insurance, or when its business is being fraudulently conducted, by suspending or revoking the certificate granted by it. The Board shall give notice thereof to the Insurance Commissioner or other similar officer of every state, and shall publish notice thereof. The Board shall give such company at least ten (10) days' notice in writing of its intention to suspend the company's right to do business or revoke the certificate of authority granted by it, stating specifically the reason why the Board intends such action.

8. **Report to Attorney General.**—It shall report promptly and in detail to the Attorney General any violation of law relative to insurance companies or the business of insurance.

9. **Shall Furnish Blanks.**—It shall furnish to the companies required to report to the Board the necessary blank forms for the statements required.

10. **Shall Keep Records.**—It shall preserve in a permanent form a full record of its proceedings and a concise statement of the condition of each company or agency visited or examined.

11. **Give Certified Copies.**—At the request of any person, and on the payment of the legal fee, the Board shall give certified copies of any record or papers in its office, when it deems it not prejudicial to public interest and shall give such other certificates as are provided for by law.

12. **Report to Governor.**—It shall report annually to the Governor the names and compensations of its clerks, the receipts and expenses of its department for the year, its official acts, the condition of companies doing business in this State, and such other information as will exhibit the affairs of said department.

13. **Send Copies of Reports To.**—It shall send a copy of such annual reports to the Insurance Commissioner or other similar officer of every state and to each company doing business in the State.

14. **Report Laws to Other States.**—On request, it shall communicate to the Insurance Commissioner or other similar officer of any other state, in which the substantial provisions of the law of this State relative to insurance have been, or shall be, enacted, any facts which by law it is his duty to ascertain respecting the companies of this State doing business within such other state.

15. **See That No Company Does Business.**—It shall see that no company is permitted to transact the business of life insurance in this State whose charter authorizes it to do a fire, marine, lightning, tornado, or inland insurance business, and that no company authorized to do a life insurance business in this State be permitted to take fire, marine or inland risks.

16. **Admit Mutual Companies.**—The Board shall admit into this State mutual insurance companies engaged in cyclone, tornado, hail and storm insurance which are organized under the laws of other states and which have Two Hundred Thousand (\$200,000.00) Dollars assets in excess of liabilities.

Art. 1.11. May Change Form of Annual Statement

The Board may, from time to time, make such changes in the forms of the annual statements required of insurance companies of any kind, as shall seem to it best adapted to elicit a true exhibit of their condition and methods of transacting business. Such form shall elicit only such information as shall pertain to the business of the company.

Art. 1.12. When Parties Refuse to Testify

If any person refuses to appear and testify or to give information authorized by this chapter to be demanded by the Board, such Board may file the sworn application of any member thereof with any district judge or district court within this State, where said witness is summoned to appear, and said judge shall summon said witness and require answers to such questions.

Art. 1.13. Officers Shall Execute Service

Peace officers shall execute process directed to them by the Board and make return thereof to it, as in the case of process issued from any court.

Art. 1.14. Shall Issue Certificate of Authority

Sec. 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 it has the required amount of capital or 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. Provided, however, that each certificate of authority in force at the effective date of this code shall remain in force until it expires by its terms or is revoked or suspended according to law.

Sec. 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.

Art. 1.15. To Examine Companies

The Chairman of the Board of Insurance Commissioners shall, once in each two years, or oftener if he deems necessary, in person or by one or more examiners commissioned by him in writing, visit each company organized under the laws of this State and examine its financial condition and its ability to meet its liabilities, as well as its compliance with the laws of Texas affecting the conduct of its business; and he may similarly, in person or by one or more commissioned examiners, visit and examine, either alone or jointly with representatives of the insurance supervising

departments of other states, each insurance company not organized under the laws of this State but authorized to transact business in this State. He or his commissioned examiners shall have free access to all the books and papers of the company or agents thereof relating to the business and affairs of such company, and shall have power to summon and examine under oath the officers, agents, and employees of such company and any other person within the State relative to the affairs of such company. He may revoke or modify any certificate of authority issued by him or by any predecessor in office when any condition or requirement prescribed by law for granting it no longer exists. He shall give such company at least ten (10) days' written notice of his intention to revoke or modify such certificate of authority stating specifically the reasons for the action he proposes to take.

Art. 1.16. Expenses of Examinations; Disposition of Sums Collected

The expenses of all examinations of domestic insurance companies made on behalf of the State of Texas by the Chairman of the Board of Insurance Commissioners or under his authority shall be paid by the corporations examined in such amount as the Chairman of the Board of Insurance Commissioners shall certify to be just and reasonable.

Assessments for the expenses of such domestic examination, which shall be sufficient to meet all the expenses and disbursements necessary to comply with the provisions of the laws of Texas relating to the examination of insurance companies and to comply with the provisions of this article and Articles 1.17 and 1.18 of this code, shall be made by the Chairman of the Board of Insurance Commissioners upon the corporations or associations to be examined taking into consideration annual premium receipts, and/or admitted assets and/or insurance in force; provided such assessments shall be made and collected only at the time such examinations are made.

All sums collected by the Chairman of the Board of Insurance Commissioners, or under his authority, on account of the cost of examinations assessed as hereinabove provided for shall be paid into the State Treasury to the credit of the Insurance Examination Fund; and the salaries and expenses of the actuary of the Board of Insurance Commissioners and of the examiners and assistants, and all other expenses of such examinations, shall be paid upon the certificate of the Chairman of the Board of Insurance Commissioners by warrant of the Comptroller drawn upon such fund in the State Treasury.

If at any time it shall appear that additional pro rata assessments are necessary to cover all of the expenses and disbursements required by law and necessary to comply with this article and Articles 1.17 and 1.18 of this code, the same shall be made, and any surplus arising from any and all such assessments, over and above such expenses and disbursements, shall be applied in reduction of subsequent assessments in the proportion assessed so that there shall be so assessed and collected the funds necessary to meet such expenses and disbursements and no more.

In case of an examination of a company not organized under the laws of Texas, whether such examination is made by the Texas authorities alone, or jointly with the insurance supervisory authorities of another state or states, the expenses of such examination due to Texas' participation therein, shall be borne by the company under examination. Payment of such cost shall be made by the company upon presentation of itemized written statement by the Chairman, and shall consist of the examiners' remuneration and expenses, and the other expenses of the Department of Insurance properly allocable to the examination. Pay-

ment shall be made directly to the Chairman, and all money collected by assessment on foreign companies for the cost of examination shall be deposited in the State Treasury by the Chairman to the credit of the Insurance Examination Fund out of which shall be paid, by warrant of the State Comptroller of Public Accounts on voucher of the Chairman of the Board of Insurance Commissioners, the examiners' remuneration and expenses in the amounts determined by the method hereinafter provided, when verified by their affidavit and approved by the Chairman; and said money is hereby appropriated for that purpose, the balance, if any, to remain in the Insurance Examination Fund in the State Treasury subject to be expended for the purposes as are other funds placed therein. Examiners' remuneration and expenses shall be the same as that which would be paid by the home state of a company under examination to persons conducting the examination of a Texas company admitted to do business in that State. If there be no recognized charge for such service, the Chairman shall fix the remuneration and expense allowance of the examiners at such reasonable figure as he may determine.

Art. 1.17. Appointment of Examiners and Assistants and Actuary by Chairman of Board of Insurance Commissioners; Salaries

The Chairman of the Board of Insurance Commissioners shall appoint such number of examiners, one of whom shall be the chief examiner, and such number of assistants as he may deem necessary for the purpose of making on behalf of the State of Texas and of the Board of Insurance Commissioners all such examinations of insurance companies, at the expense of such companies or corporations, as are required to be made or provided for by law; and he shall also appoint an actuary to the Board of Insurance Commissioners to advise the Board in connection with the performance of its duties and for aid and advice and counsel in connection with all such examinations required by law. Such examiners and assistants shall, as directed by the Chairman of the Board of Insurance Commissioners, perform all the duties relative to all examinations provided by law to be made by the Board of Insurance Commissioners of the State of Texas, and it is the purpose of this article and Articles 1.16 and 1.18 of this code to provide for the examination hereunder by the Chairman of the Board of Insurance Commissioners of all corporations, firms or persons engaged in the business of writing insurance of any kind in this State whether now subject to the supervision of the Insurance Department or not.

All such examiners and assistants and such actuary shall hold office subject to the will of the Chairman of the Board of Insurance Commissioners and the number of such examiners and assistants may be increased or decreased from time to time to suit the needs of the examining work. The actuary and all such examiners and assistants shall be paid out of the Insurance Examination Fund, such salaries as shall be fixed from time to time by the Legislature, and their necessary traveling expenses shall be paid out of said fund upon sworn, itemized accounts thereof, to be rendered monthly and approved by the Chairman of the Board of Insurance Commissioners before payment.

Where the Chairman of the Board shall deem it advisable he may commission the actuary of the Board, the chief examiner, or any other examiner or employee of the Department, or any other person, to conduct or assist in the examination of any company not organized under the laws of Texas and allow them compensation as herein provided, except that they may not be otherwise compensated during the time they are assigned to such foreign company examinations. Other than as thus provided, neither the actuary of the Board of Insurance Commissioners

nor any examiner or assistant shall continue to serve as such if, while holding such position, he shall directly or indirectly accept from any insurance company any employment or pay or compensation or gratuity on account of any service rendered or to be rendered or any account whatsoever.

Art. 1.18. Oath and Bond of Examiners and Assistants; Action on Bond for False Reports

Each examiner and assistant examiner, before entering upon the duties of his appointment shall take and file in the office of the Secretary of State an oath to support the Constitution of this State, to faithfully demean himself in office, to make fair and impartial examinations, and that he will not accept as presents or emoluments any pay, directly or indirectly, for the discharge of his duty, other than the remuneration fixed and accorded to him by law; and that he will not reveal the condition of, nor any information secured in the course of any examination of any corporation, firm or person examined by him, to anyone except the Members of the Board of Insurance Commissioners, or their authorized representative, or when required as witness in Court.

Every such examiner shall enter into a bond payable to the State in the sum of Ten Thousand (\$10,000.00) Dollars and every assistant examiner shall enter into a bond in the sum of Five Thousand (\$5,000.00) Dollars, to be approved by the Chairman of the Board and deposited in the office of the State Comptroller, conditioned that he will faithfully perform his duties as such examiner.

In case any such examiner or assistant examiner shall knowingly make any false report or give any information in violation of law relative to any such examination of any corporation, firm or person so examined, any such corporation, firm or person shall have a right of action on such bond for his injuries, in a suit brought in the name of the State at the relation of the injured party.

Art. 1.19. In Case of Examination

The Chairman of the Board for the purpose of examination authorized by law, has power either in person or by one or more examiners by him commissioned in writing:

1. To require free access to all books and papers within this State of any insurance companies, or the agents thereof, doing business within this State.

2. To summon and examine any person within this State, under oath, which he or any examiner may administer, relative to the affairs and conditions of any insurance company.

3. To visit at its principal office, wherever situated, any insurance company doing business in this State, for the purpose of investigating its affairs and conditions, and shall revoke the certificate of authority of any such company in this State refusing to permit such examination. The reasonable expenses of all such examination shall be paid by the company examined.

The Board may revoke or modify any certificate of authority issued by it when any conditions prescribed by law for granting it no longer exist.

The Board shall also have power to institute suits and prosecutions, either by the Attorney General or such other attorneys as the Attorney General may designate, for any violation of the law of this State relating to insurance. No action shall be brought or maintained by any person other than the Board for closing up the affairs or to enjoin,

restrain or interfere with the prosecution of the business of any such insurance company organized under the laws of this State.

Art. 1.20. Transfer of Securities by Board

No transfer by the Board of securities of any kind, in any way held by it, shall be valid unless countersigned by the State Treasurer.

Art. 1.21. Duty of State Treasurer

It is the duty of the State Treasurer:

1. To countersign any such transfer presented to him by the Board.
2. To keep a record of all transfers, stating the name of the transferee, unless transferred in blank, and a description of the security.
3. Upon countersigning, to advise by mail the company concerned, the particulars of the transaction.
4. In his annual report to the Legislature to state the transfers and the amount thereof, countersigned by him.

Art. 1.22. Free Access to Records

To verify the correctness of records, the Board shall be entitled to free access to the Treasurer's records, required by the preceding article, and the Treasurer shall be entitled to free access to the books and other documents of the Insurance Department relating to securities held by the Board.

Art. 1.23. Instruments and Copies as Evidence

Every instrument executed by any member of the Board of Insurance Commissioners, or by the Commissioner of Insurance of any other state or by an officer of any other state having a title of similar import, relating to insurance and which has been or shall be executed pursuant to authority conferred by law, and authenticated by the seal of office of the Board or such other officer executing the instrument, shall be received as evidence; and copies of papers and records in the office of the Board or in the office of such other officer, certified by a member of the Board if the paper or record is in the office of the Board or by such other officer in whose office such papers or records are found, and authenticated by the appropriate seal of office, shall be received as evidence with the same effect as the originals.

Art. 1.24. To Make Inquiries of Company

The Board is authorized to address any inquiries to any insurance company in relation to its business and condition, or any matter connected with its transactions which the Board may deem necessary for the public good or for a proper discharge of its duties. It shall be the duty of the addressee to promptly answer such inquiries in writing.

Art. 1.25. Annual Statement to Legislature

The Board shall cause the information contained in the annual statement of companies to be arranged in tabular form and prepare the same for printing in a single document and submit the same to the Legislature as a portion of its regular report to that body.

CHAPTER TWO

INCORPORATION OF INSURANCE COMPANIES

Art.

- 2.01. Formation of Company.
- 2.02. Articles of Incorporation.
- 2.03. Live Stock Companies.
- 2.04. Certificate of Authority.
- 2.05. Oath as to Capital.
- 2.06. Certificate of Examiner.
- 2.07. Shares of Stock.
 - 1. Division.
 - 2. Nominal or Par Value Shares; Conditions of Issuance.
 - 3. Disposition of Authorized Capital Stock; Nominal or Par Value Shares Fully Paid and Unassessable.
 - 4. Filing Certificate and Articles of Incorporation; Approval of Attorney General; Fee.
 - 5. Certificate Covering Shares of Nominal or No Par Value Sold or Issued.
 - 6. Powers Granted Additional to Existing Powers.
- 2.08. Items of Capital Stock.
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- 2.11. Directors.
- 2.12. Special Meeting to Elect Directors.
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- 2.16. Business Records.
- 2.17. Shall Fill Vacancies; Quorum.
- 2.18. Governed by Other Laws.
- 2.19. Co-operative Savings Companies, Prohibited.

Art. 2.01. Formation of Company

Any number of persons desiring to form a company for the purpose of transacting insurance business shall adopt and sign articles of incorporation, and submit the same to the Board, who in turn shall submit the same to the Attorney General. If said articles shall be found by the Attorney General to be in accordance with the law of this State, he shall attach thereto his certificate to that effect, whereupon such articles shall be deposited with the Board in the office of its Chairman.

Art. 2.02. Articles of Incorporation

Such articles of incorporation shall contain:

- 1. The name of the company; and the name selected shall not be so similar to that of any other insurance company as to be likely to mislead the public.
- 2. The locality of the principal business office of such company.
- 3. The kind of insurance business in which the company proposes to engage.
- 4. The amount of its capital stock, which shall in no case be less than One Hundred Thousand (\$100,000.00) Dollars, unless otherwise specifically provided in this code.

Art. 2.03. Live Stock Companies

Live stock insurance companies may be organized under the provisions of this code, with an authorized and paid up capital stock of not less than Ten Thousand (\$10,000.00) Dollars.

Art. 2.04. Certificate of Authority

When the said articles of incorporation have been deposited with the Board, and the law in all other respects has been complied with by the company, the Board, through its Chairman, shall make or cause an examination to be made by some competent and disinterested person appointed by him for that purpose; and if it shall be found that the capital stock of the company, to the amount required by law, has been paid in, and is possessed by it, in money, or in such stocks, notes, bonds or mortgages, as are required by law, and that the same is the bona fide property of such company, and that such company has in all respects complied with the law relating to insurance, then the Board shall issue to such company a certificate of authority to commence business as proposed in their articles of incorporation.

Art. 2.05. Oath as to Capital

Unless otherwise specifically provided in this code, the incorporators or officers of any such company shall be required to certify under oath to the Board that the capital exhibited to the person making the examination is the bona fide property of such company. The certificate shall be filed and recorded in the office of the Board.

Art. 2.06. Certificate of Examiner

If the examination be made by one, other than the Chairman, the finding shall be certified under the oath of the examiner. Such finding and certificate shall be filed and recorded in the office of the Chairman of the Board.

Art. 2.07. Shares of Stock

Sec. 1. Division.—The stock of any insurance company organized under the laws of this State, if stock with a nominal or par value, shall be divided into shares of not less than Ten (\$10.00) Dollars each, and not more than One Hundred (\$100.00) Dollars each.

Sec. 2. Nominal or Par Value Shares; Conditions of Issuance.—Upon the incorporation or upon the amendment of the charter in the manner now or hereafter provided by law, of any insurance company organized under the laws of this State, provision may be made for the issuance of shares of its stock without a nominal or par value. Every such share shall be equal in all respects to every other such share; provided, however, that the stockholders of any such company authorizing the issuance of its stock without nominal or par value, shall be required in good faith to subscribe and pay for at least fifty (50) per cent of the authorized shares to be issued without nominal or par value, before said corporation shall be chartered or have its charter amended so as to authorize the issuance of shares without nominal or par value; and provided further that in no event shall the amount so paid be less than Two Hundred Fifty Thousand (\$250,000.00) Dollars.

Sec. 3. Disposition of Authorized Capital Stock; Nominal or Par Value Shares Fully Paid and Unassessable.—Such companies may issue and dispose of their authorized shares having no nominal or par value for money or those notes, bonds, mortgages and stocks of which the law requires that capital stock of insurance companies shall consist. Any and

all shares without nominal or par value issued for the consideration prescribed or fixed in accordance with the provisions of this Section shall be fully paid stock and not liable to any further call or assessment thereon, nor shall the subscriber or holder be liable for any further payments.

Sec. 4. Filing Certificate and Articles of Incorporation; Approval of Attorney General; Fee.—Insurance companies authorizing the issuance of shares of their stock without a nominal or par value, shall furnish to and file with the Board at the time of the filing of the charter or amendment to the charter, authorizing the issuance of such stock, a certificate authenticated by the incorporators as to the original charter and by a majority of the directors as to an amendment, setting forth the number of shares without nominal or par value subscribed, and the actual consideration received by the company for such shares, and upon receiving such certificate, together with a charter fee of Twenty-five (\$25.00) Dollars, it shall be the duty of the Board to submit such certificate and the articles of incorporation to the Attorney General for examination; and if he approves the same as conforming with law, he shall so certify and deliver same to the Chairman of the Board, who shall, upon receipt thereof, record the same in a book kept for that purpose; and upon receipt of a fee of One (\$1.00) Dollar, he shall furnish a certified copy of the charter to the incorporators or of the amendment to the directors, and same shall be effective. In case of original incorporation, said companies shall proceed to organize in the manner now provided by law for the organization of insurance companies.

Sec. 5. Certificate Covering Shares of Nominal or No Par Value Sold or Issued.—In the event all of the shares of stock without nominal or par value, authorized by the original charter or any amendment, are not subscribed and paid for at the time the original charter is granted, or the amendment is filed, then when such remaining shares of stock without nominal or par value are sold and issued, the company shall file with the Board, within ninety (90) days after the issuance of such shares a certificate authenticated by a majority of the directors setting forth the number of such shares so issued and the actual consideration received by the company for such shares.

Sec. 6. Powers Granted Additional to Existing Powers.—The privileges and powers conferred by this article shall be in addition to any and all powers and privileges conferred by any other law or laws, and not in restriction or limitation of any of the powers now permitted to such companies; life, health or accident insurance companies organized or amending their charter under this article shall be subject to and controlled by the provisions of Chapter 3 of this code, except where the provisions of said chapter are inconsistent or in conflict with the provisions of this article.

Art. 2.08. Items of Capital Stock

The capital stock of any such insurance company, except any writing life, health and accident insurance and except as otherwise provided in this code, shall consist:

1. In lawful money of the United States; or
2. In the bonds of this state or any county or incorporated town or city thereof, or in the stock of any National Bank, or in the stock of any State Bank of Texas whose deposits are insured by the Federal Deposit Insurance Corporation; provided, however, that if said capital stock consists of the stock of a State Bank of Texas that not more than thirty-five (35%) per cent of the total outstanding stock of any one (1) State Bank of Texas may be so used as capital stock of any one (1) insurance

company, and provided further that neither the insurance company whose capital stock consists of said bank stock nor any other insurance company may either invest its funds in nor use as capital stock the remaining stock of any such State Bank.

3. In first mortgages upon unencumbered real estate in this State, the title to which is valid, and the market value of which is not less than forty (40%) per cent more than the amount loaned thereon. If any part of the value of such real estate is in buildings, such buildings shall be insured against loss by fire for not less than sixty (60%) per cent of the value thereof, with loss clause payable to such company. Provided, that the provisions of this article, with respect to the value of real estate, compared to the amount loaned thereon, shall not apply to loans secured by real estate which are insured by the Federal Housing Administrator.

4. In insured accounts and evidences of indebtedness as defined and limited by Section 1, Chapter 618, page 1356, Acts of 1941, 47th Legislature;¹ in shares or share accounts as authorized in Section 1, page 76, Acts 1939, 46th Legislature;² in insured or guaranteed obligations as authorized in Chapter 230, page 315, Acts 1945, 49th Legislature;³ in bonds issued under the provisions authorized by Section 9, Chapter 231, page 774, Acts 1933, 43rd Legislature;⁴ in bonds under authority of Section 1, Chapter 1, page 427, Acts 1939, 46th Legislature;⁵ in bonds and other indebtednesses as authorized in Section 1, Chapter 3, page 494, Acts 1939, 46th Legislature;⁶ or in bonds as authorized by Section 5, Chapter 122, page 219, Acts 1949, 51st Legislature;⁷ or in bonds as authorized by Section 10, Chapter 159, page 326, Acts 1949, 51st Legislature;⁸ or in bonds as authorized by Section 19, Chapter 340, page 655, Acts 1949, 51st Legislature;⁹ or in bonds as authorized by Section 10, Chapter 398, page 737, Acts 1949, 51st Legislature;¹⁰ or in bonds as authorized by Section 18, Chapter 465, page 855, Acts 1949, 51st Legislature;¹¹ or in shares or share accounts as authorized in Chapter 534, page 966, Acts 1949, 51st Legislature¹²; or in bonds as authorized by Section 24, Chapter 110, page 193, Acts 1949, 51st Legislature¹³, together with such other investments as are now or may hereafter be specifically authorized by law.

1. Article 842a.
2. Article 881a—24.
3. Article 842a—1.
4. Article 1187a, § 9.
5. Article 1269k—1.
6. Article 5890c.
7. Article 6795b—1, § 7b.

8. Article 8197f.
9. Article 8197f.
10. Article 8197f.
11. Article 8197f.
12. Article 881a—24.
13. Article 8197f.

Art. 2.09. Re-investment of Capital Stock

Any such company may exchange and re-invest its capital stock in like securities, as occasion may require.

Art. 2.10. 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 new 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 subdivisions 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 (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, Acts of the 43rd Legislature, Second Called Session.¹

(h) In insured accounts and evidences of indebtedness as defined and limited by Section 1, Chapter 618, page 1356, Acts of 47th Legislature; ² in shares or share accounts as authorized in Section 1, page 76, Acts 1939, 46th Legislature; ³ in insured or guaranteed obligations as authorized in Chapter 230, page 315, Acts 1945, 49th Legislature; ⁴ in bonds issued under the provisions authorized by Section 9, Chapter 231, page 774, Acts 1933, 43rd Legislature; ⁵ in bonds under authority of Section 1, Chapter 1, page 427, Acts 1939, 46th Legislature; ⁶ in bonds and other indebtednesses as authorized in Section 1, Chapter 3, page 494, Acts 1939, 46th Legislature; ⁷ in "Municipal Bonds" issued under and by virtue of Chapter 280, Acts 1929, 41st Legislature; ⁸ or in bonds as authorized by Section 5, Chapter 122, page 219, Acts 1949, 51st Legislature; ⁹ or in bonds as authorized by Section 10, Chapter 159, page 326, Acts 1949, 51st Legislature; ¹⁰ or in bonds as authorized by Section 19, Chapter 340, page 655, Acts 1949, 51st Legislature; ¹¹ or in bonds as authorized by Section 10, Chapter 398, page 737, Acts 1949, 51st Legislature; ¹² or in bonds as authorized by Section 18, Chapter 465, page 855, Acts 1949, 51st Legislature; ¹³ or in shares or share accounts as authorized in Chapter 534, page 966, Acts 1949, 51st Legislature; ¹⁴ or in bonds as authorized by Section 24, Chapter 110, page 193, Acts 1949, 51st Legislature, ¹⁵ together with such other investments as are now or may hereafter be specifically authorized by law.

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| 1. Article 2603d. | 9. Article 6795b—1, § 7b. |
| 2. Article 842a. | 10. Article 8197f. |
| 3. Article 881a—24. | 11. Article 8197f. |
| 4. Article 824a—1. | 12. Article 8197f. |
| 5. Article 1187a, § 9. | 13. Article 8197f. |
| 6. Article 1269k—1. | 14. Article 881a—24. |
| 7. Article 5890c. | 15. Article 8197f. |
| 8. Article 7880—19a. | |

Art. 2.11. Directors

The affairs of any insurance companies organized under the laws of this State shall be managed by not fewer than seven (7) directors, all of whom shall be stockholders in the company. Within thirty (30) days after the subscription books of the company have been filed, a majority of the stockholders shall hold a meeting for the election of directors, each share entitling the holder thereof to one (1) vote. The directors then in office shall continue in office until their successors have been duly chosen and have accepted the trust. The annual meeting for the election of directors of any such company shall be held not later than February 28th as the by-laws of the company may direct.

The provisions of House Bill No. 394, Acts 1951, 52nd Leg., p. 166, ch. 104, amending Article 4708 of the Revised Civil Statutes of 1925, were included in the enrolled bill of Senate Bill No. 236, Article 2.11, constituting the Insurance Code, by the Enrolling Clerk of the Senate pursuant to House Concurrent Resolution No. 179.

Art. 2.12. Special Meeting to Elect Directors

If from any cause the stockholders should fail to elect directors at an annual meeting, they may hold a special meeting for that purpose, by giving thirty (30) days' notice thereof in some newspaper in general circulation in the county in which the principal office of the company is located. The directors chosen at such special meeting shall continue in office until their successors are duly elected and have accepted.

Art. 2.13. Quorum of Stockholders

Except as may be otherwise provided in this code, no meeting of stockholders shall elect directors or transact such other business of the com-

pany, unless there shall be present, in person or by proxy, a majority in value of the stockholders equal to two-thirds of the stock of such company.

Art. 2.14. Directors Shall Choose Officers

Except as may be otherwise provided in this code, the directors shall choose by ballot from their own number a president and such other officers as the by-laws require, who shall perform such duties, receive such compensation and give such security as the by-laws may require.

Art. 2.15. May Ordain By-Laws

The directors may establish such by-laws and regulations, not inconsistent with law, as shall appear to them necessary for regulating and conducting the business of the company.

Art. 2.16. Business Records

The directors shall keep a full and correct record of their transactions, to be open during business hours to the inspection of stockholders and others interested therein.

Art. 2.17. Shall Fill Vacancies; Quorum

The directors shall fill any vacancy which occurs in the board or in any office of such company. A majority of the board shall be a quorum for the transaction of business.

Art. 2.18. Governed by Other Laws

The laws governing corporations in general shall apply to and govern insurance companies incorporated in this state in so far as the same are not inconsistent with any provision of this code.

Art. 2.19. Co-operative Savings Companies, Prohibited

There shall not be incorporated any such Co-operative Savings and Contract Loan Companies as are mentioned in Acts of 1923 of the 38th Legislature, Chapter 157, page 336, being Article 4698, Revised Civil Statutes of 1925.

CHAPTER THREE

LIFE, HEALTH AND ACCIDENT INSURANCE

A. TERMS DEFINED; DOMESTIC COMPANIES

Art.

- 3.01. Terms Defined.
- 3.02. Who May Incorporate.
- 3.03. Limited Capital Stock Companies.
- 3.04. Charter and Organization.
- 3.05. Amendment of Charter.
- 3.06. Original Examination and Certificate.
- 3.07. Shall File Annual Statement.
- 3.08. Renewal Certificates.
- 3.09. Copy of Certificates for Agents.
- 3.10. May Reinsure.
- 3.11. Dividends; How Paid.
- 3.12. Compensation of Officers and Others; Including Pensions.
- 3.13. Disbursement by Vouchers.
- 3.14. To Deposit Funds in Name of Company.
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SUBCHAPTER A. TERMS DEFINED; DOMESTIC COMPANIES

Art. 3.01. Terms Defined

A life insurance company shall be deemed to be a corporation doing business under any charter involving the payment of money or other thing of value, conditioned on the continuance or cessation of human life, or involving an insurance, guaranty, contract or pledge for the payment of endowments or annuities.

An accident insurance company shall be deemed to be a corporation doing business under any charter involving the payment of money or other thing of value, conditioned upon the injury, disablement or death of persons resulting from traveling or general accidents by land or water.

A health insurance company shall be deemed to be a corporation doing business under any charter involving the payment of any amount of money, or other thing of value, conditioned upon loss by reason of disability due to sickness or ill-health.

When consistent with the context and not obviously used in a different sense, the term "company," or "insurance company," as used herein, includes all corporations engaged as principals in the business of life, accident or health insurance.

The term "domestic" company, as used herein, designates those life, accident or life and accident, health and accident, or life, health and accident insurance companies incorporated and formed in this State.

The term "foreign company" means any life, accident or health insurance company organized under the laws of any other state or territory of the United States or foreign country.

The term "home office" of a company means its principal office within the state or country in which it is incorporated and formed.

The "insured" or "policyholder" is the person on whose life a policy of insurance is effected.

The "beneficiary" is the person to whom a policy of insurance effected is payable.

By the term "net assets" is meant the funds of the company available for the payment of its obligations in this State, including uncollected premiums not more than three months past due and deferred premiums on policies actually in force, after deducting from such funds all unpaid losses and claims and claims for losses, and all other debts, exclusive of capital stock.

The "profits" of a company are that portion of its funds not required for the payment of losses and expenses, nor set apart for any other purpose required by law.

Art. 3.02. Who May Incorporate

Any three or more citizens of this State may associate themselves for the purpose of forming a life insurance company, or accident insurance company, or life and accident, health and accident, or life, health and accident insurance company. No such company shall transact more than one of the foregoing classes of business except in separate and distinct departments. In order to form such a company, the incorporators shall sign and acknowledge its articles of incorporation and file the same in the office of the Board of Insurance Commissioners. Such articles shall specify:

1. The name and place of residence of each of the incorporators.
2. The name of the proposed company, which shall contain the words "Insurance Company" as a part thereof.
3. The location of its home office.
4. The kind or kinds of insurance business it proposes to transact.
5. The amount of its capital stock, not less than \$100,000, unless otherwise expressly provided by law, all of which capital stock must be subscribed and fully paid up and in the hands of the incorporators before said articles of incorporation are filed.
6. The period of time it is to exist, which shall not exceed five hundred years.
7. The number of shares of such capital stock.
8. Such other provisions not inconsistent with the law as the incorporators may deem proper to insert therein.

Art. 3.03. Limited Capital Stock Companies

Companies may be incorporated in the manner prescribed by this subchapter for the incorporation of life, accident and health insurance companies generally, and to issue no policy promising to pay more than Five Thousand (\$5,000.00) Dollars in the event of death of the insured from natural causes, nor more than Ten Thousand (\$10,000.00) Dollars in the event of death of any person from accidental causes, which may issue, combined or separately, life, accident, or health insurance policies with not less than an actual paid up capital of Twenty-five Thousand (\$25,000.00) Dollars. Provided, however, that when the net capital and surplus of any such company is not more than Thirty-five Thousand (\$35,000.00) Dollars, the excess over One Thousand (\$1,000.00) Dollars natural death benefit and Two Thousand (\$2,000.00) Dollars accidental death benefit under any policy issued by it shall be reinsured in some legal reserve company licensed in Texas; that when the net capital and surplus is Thirty-five Thousand and One (\$35,001.00) Dollars to Fifty Thousand (\$50,000.00) Dollars, the natural death benefit over Two Thousand (\$2,000.00) Dollars and accidental death benefit over Four Thousand (\$4,000.00) Dollars shall be so reinsured; that when the net capital and surplus is Fifty Thousand and One (\$50,001.00) Dollars to Seventy-five Thousand (\$75,000.00) Dollars, the natural death benefit over Three Thousand (\$3,000.00) Dollars and accidental death benefit over Six Thousand (\$6,000.00) Dollars shall be so reinsured; and when the net capital and surplus is Seventy-five Thousand and One (\$75,001.00) Dollars to less than One Hundred Thousand (\$100,000.00) Dollars, the natural death benefit over Four Thousand (\$4,000.00) Dollars and accidental death benefit over Eight Thousand (\$8,000.00) Dollars shall be so reinsured. All such companies shall be subject to all laws regulating life insurance companies in this State not inconsistent with the provisions of this article. Such companies shall not be permitted to invest their assets in other than Texas securities as defined by the laws of this State regulating the investments of life insurance companies.

Art. 3.04. Charter and Organization

When such articles of incorporation are filed with the Board of Insurance Commissioners, together with an affidavit made by two or more of its incorporators that all the stock has been subscribed in good faith and fully paid for, together with a charter fee of Twenty-five (\$25.00) Dollars, it shall be the duty of the Board to submit such articles of incorporation to the Attorney General for examination; and if he approves the same as conforming with the law, he shall so certify and deliver such articles of incorporation, together with his certificate of approval attached thereto, to the Board, who shall upon receipt thereof, record the same in a book kept for that purpose; and upon receipt of a fee of One (\$1.00) Dollar, it shall furnish a certified copy of the same to the corporators, upon which they shall be a body politic and corporate, and may proceed to complete the organization of the company, for which purpose they shall forthwith call a meeting of the stockholders, who shall adopt by-laws for the government of the company, and elect a board of directors not less than five, composed of stockholders; which board shall have full control and management of the affairs of the corporation, subject to the by-laws thereof as adopted or amended from time to time by the stockholders or directors, and to the laws of this State. The board of directors so elected shall serve until the second Tuesday in March thereafter, on which date annually thereafter, there shall be held a meeting of the stockholders at the home office, and a board of directors elected for the ensuing year. At all meetings of the stockholders, each stockholder shall be entitled to one vote for each share of stock fully paid up appearing in his name on the books of the company, which vote may be given in person or by written proxy. The majority of the paid up capital stock at any meeting of the stockholders shall be a quorum.

Art. 3.05. Amendment of Charter

At any regular or called meeting of the stockholders, they may, by resolution, provide for any lawful amendment to the charter or articles of incorporation; and such amendment, accompanied by a copy of such resolution duly certified by the president and secretary of the company, shall be filed and recorded in the same manner as the original charter, and shall thereupon become effective. Stockholders representing a majority of the capital stock of any such company may in such manner also increase or reduce the amount of its capital stock. The capital stock shall in no case be reduced to less than the minimum amount of fully paid up capital stock required by applicable provisions of law. A statement of any such increase or reduction shall be signed and acknowledged by two officers of the company and filed and recorded along with the certified copy of the resolution of the stockholders provided therefor in the same manner as the charter or amendment thereto. For any such increase or reduction, the company may require the return of the original certificates as other evidence of stock in exchange for new certificates issued in lieu thereof. The shares of stock of such company shall be transferable on its books, in accordance with law and the by-laws of the company, by the owner in person or his authorized agent. Every person becoming a stockholder by such transfer shall succeed to all rights of the former holder of the stock transferred, by reason of such ownership.

Art. 3.06. Original Examination and Certificate

When the first meeting of the stockholders shall be held and the officers of the company elected, the president or secretary shall notify the Board of Insurance Commissioners; and it shall thereupon immediately make, or cause to be made, at the expense of the company, a full and thorough

examination thereof. If it finds that all of the capital stock of the company, amounting to not less than the minimum amount required by law, has been fully paid up and is in the custody of the officers, either in cash or securities of the class in which such companies are authorized by this chapter to invest or loan their funds, it shall issue to such company a certificate of authority to transact such kind or kinds of insurance business within this State as such officers may apply for and as may be authorized by its charter; which certificate shall be issued for a period of not more than fifteen (15) months, and not extending more than ninety (90) days beyond the last day of February next after the date of its issuance, on which date such certificate shall expire by its terms unless revoked or suspended according to law. Before such certificate is issued, not less than two officers of such company shall execute and file with the Board of Insurance Commissioners a sworn schedule of all the assets of the company exhibited to it upon such examination, showing the value thereof, together with a sworn statement that the same are bona fide, the unconditional and unencumbered property of the company and are worth the amounts stated in such schedule. No original or first certificate of authority shall be granted, except in conformity herewith, regardless of the date of filing of the articles of incorporation with the Board of Insurance Commissioners.

Art. 3.07. Shall File Annual Statement

Each "domestic" company shall, after the first day of January of each year and before the first day of March following, and before the renewal of its certificate of authority to transact business, prepare, under oath of two of its officers, and deposit in the office of the Board of Insurance Commissioners, a statement, accompanied with the fee for filing annual statements of Twenty (\$20.00) Dollars, showing the condition of the company on the thirty-first day of December the next preceding, which shall include a statement in detail showing the character of its assets and liabilities on that date, the amount and character of business transacted, moneys received and how expended during the year, and the number and amount of its policies in force on that date in Texas, and the total amount of its policies in force.

Art. 3.08. Renewal Certificates

Whenever any such company, transacting insurance business in this State, shall have filed its annual statement in accordance with the preceding article, showing a condition which entitles it to transact business in this State in accordance with the provisions of this chapter, the Board of Insurance Commissioners shall, upon a receipt of a fee of One (\$1.00) Dollar, issue a renewal certificate of authority to such company for a period of not more than fifteen (15) months, and not extending more than ninety (90) days beyond the last day of February next after the date of its issuance, on which date such certificate shall expire by its terms unless revoked or suspended according to law.

Art. 3.09. Copy of Certificates for Agents

Any such company organized under the laws of this State, having received authority from the Board of Insurance Commissioners to transact business in this State, shall receive from such Board, upon written request therefor, a certified copy of its certificate of authority for each of its agents in this State.

Art. 3.10. May Reinsure

Any "domestic" company may reinsure in any insurance company authorized to transact business in this State, any risk or part of a risk

which it may assume. No such company shall have the power to so reinsure its entire outstanding business until the contract therefor shall be submitted to the Board of Insurance Commissioners, and be by it approved, as protecting fully the interests of all the policyholders.

Art. 3.11. Dividends; How Paid

No life insurance company shall declare or pay any dividends to its policyholders, except from the expense loading and profits made by such company; provided, however, any such company now 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 policyholders. 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 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.

Art. 3.12. Compensation of Officers and Others; Including Pensions

No "domestic" company shall pay any salary, compensation or emolument to any officer, trustee, or director thereof, nor any salary, compensation or emolument amounting in any year to more than Five Thousand (\$5,000.00) Dollars to any person, firm or corporation, unless such payment be first authorized by a vote of the board of directors of such company. The limitation as to time contained herein shall not be construed as preventing any "domestic" company from entering into contracts with its agents for the payment of renewal commissions. Such company may grant and pay pensions, retirement or group insurance to its officers and employees according to a plan which shall first be submitted to and approved by the stockholders of the company, or in the case of a mutual company by the policyholders, at a regular meeting or at some special meeting called for the purpose in which such plan shall be set forth in detail.

Any amendment or modification of any such plan originally adopted shall be similarly approved before it becomes effective.

Art. 3.13. Disbursement by Vouchers

No "domestic" company shall make any disbursement of One Hundred (\$100.00) Dollars or more, unless the same be evidenced by a voucher signed by, or on behalf of, the person, firm or corporation receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements, the voucher shall set forth the service rendered and statement of the disbursement made. If the expenditure be in connection with any matter pending before any legislature or public body, or before any department or officer of any state or government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such company therein. When such voucher cannot be obtained, the expenditure shall be evidenced by a paid check or an affidavit describing the character and object of the expenditure, and stating the reason for not obtaining such voucher.

Art. 3.14. To Deposit Funds in Name of Company

Any director, member of a committee, or officer, or any clerk of a "domestic" company, who is charged with the duty of handling or investing its funds, shall not deposit or invest such funds, except in the corporate name of such company; shall not borrow the funds of such company; shall not be interested in any way in any loan, pledge, security, or property of such company, except as stockholder; shall not take or receive to his own use any fee, brokerage, commission, gift or other consideration for, or on account of, a loan made by or on behalf of such company.

Art. 3.15. Deposit of Securities in Amount of Capital Stock

Any "domestic" company may, at its option, deposit with the Treasurer of this State, securities in which its capital stock is invested, or securities equal in amount to its capital stock, of the class in which the law of this State permits such insurance companies to invest their capital stock, and may, at its option, withdraw the same or any part thereof, first having deposited with the Treasurer, in lieu thereof, other securities of like class and equal amount and value to those withdrawn. Any such securities, before being so originally deposited or substituted, shall be approved by the Board of Insurance Commissioners. When any such deposit is made, the Treasurer shall execute to the company making such deposit a receipt therefor, giving such description of said stock or securities as will identify the same, and stating that the same are held on deposit as the capital stock investments of such company; and such company shall have the right to advertise such fact or print a copy of the Treasurer's receipt on the policies it may issue; and the proper officer or agent of each insurance company making such deposit shall be permitted at all reasonable times to examine such securities and to detach coupons therefrom, and to collect interest thereon, under such reasonable rules and regulations as may be prescribed by the Treasurer and the Board of Insurance Commissioners. The deposit herein provided for, when made by any company, shall thereafter be maintained so long as said company shall have outstanding any liability to its policyholders in this State. For the purpose of state, county, and municipal taxation, the situs of all personal property belonging to such companies shall be at the home office of such company.

Art. 3.16. Deposits of Securities in Amount of Legal Reserve

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 In-

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 appraisement 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. For the purpose of state, county, and municipal taxation, the situs of all personal property belonging to such companies shall be at the home office of such company.

Art. 3.17. What Deposits May Include

Any life insurance company organized under the laws of this State and making the deposit provided for by the next preceding Article 3.16, may include, as a part thereof, securities representing its capital stock, and any deposits of its securities heretofore or hereafter made in compliance with the laws of this State representing its capital stock, and shall only be required to deposit in addition thereto the remainder of its total reserve on outstanding policies and annuity bonds after deducting therefrom the amount of its capital stock securities so deposited. Deposits of securities made hereunder to the value of the reserve on all outstanding policies and annuity bonds shall be added to, and maintained from time to time as the reserve values increase, by the company issuing such contracts, or by any company which may reinsure or assume them; and such securities shall be held by the Board of Insurance Commissioners and its successors in office in trust for the benefit of such policies and annuity bonds so long as the same shall remain in force. No company making the deposit provided for herein shall reinsure its outstanding business, or the whole of any one or more of its risks, except in or with a company or companies incorporated and organized under the laws of this State, or a company having permission to do business in this State.

Art. 3.18. Effect and Value of Deposits in Amount of Legal Reserve

After making the deposit mentioned above, no company shall thereafter issue a policy of insurance or endowment or annuity bond, except policies of industrial insurance, unless it shall have upon its face a certificate substantially in the following words: "This policy is registered, and approved securities equal in value to the legal reserve hereon are held in trust by the Board of Insurance Commissioners of the State of Texas," which certificate shall be signed by the Chairman of the Board of Insurance Commissioners and attested by the seal of such Board. All policies and bonds of each kind and class issued and the forms thereof filed in the office of said Board of Insurance Commissioners shall have printed thereon some appropriate designating letter or figure, combination of letters or figures or terms identifying the particular form of contract, together with the year of adoption of such form. Whenever any change or modification is made in the form of contracts, policy or bond, the designating letters, figures or terms and the year of adoption thereon shall be correspondingly changed. The Board of Insurance Commissioners shall prepare and keep such registers thereof as will enable it to compute their value at any time. Upon written proof attested by the president or vice president and secretary of the company which shall have issued such policies or annuity bonds that any of them have been commuted or terminated, the Board of Insurance Commissioners shall commute or cancel them upon its register. Until such proof is furnished all registered contracts shall be considered in force for the purposes of this chapter. The net value of every policy or annuity bond, according to the standard prescribed by the laws of this State for the valuation of

policies of such life insurance companies, when the first premium shall have been paid thereon, less the amount of such liens as the company may have against it (not exceeding such value), shall be entered opposite the record of said policy or annuity bond in the register aforesaid at the time such record is made. On the first day of each year, or within sixty (60) days thereafter, the Board of Insurance Commissioners shall cause the policies and annuity bonds of each company accepting the terms of this chapter to be carefully valued; and the actual value thereof at the time fixed for such valuation, less such liens as the company may have against it, not exceeding such value, shall be entered upon the register opposite the record of such policy or bond, and the Board of Insurance Commissioners shall furnish a certificate of the aggregate of such value to the company. The Board of Insurance Commissioners shall cancel mutilated or surrendered policies and annuity bonds issued by any such company, and register other like policies or bonds issued in lieu thereof. Each company, which shall have made the deposit herein provided for, shall make additional deposits from time to time, in amounts not less than Five Thousand (\$5,000.00) Dollars, and of such securities as are permitted by this chapter to be deposited, so that the market value of the securities deposited shall always be equal to the net value of the policies and annuity bonds issued by said company, less such liens as the company may have against them, not exceeding such net value. So long as any company shall maintain its deposits as herein prescribed at an amount equal to, or in excess of, the net value of its policies and annuity bonds as aforesaid, it shall be the duty of said Chairman of the Board of Insurance Commissioners to sign and affix the seal of such Board to the certificates before mentioned on every policy and annuity bond presented to him for that purpose by any company so depositing. The Board of Insurance Commissioners shall keep a careful record of the securities deposited by each company, showing by item the amount and market value thereof. If at any time it shall appear therefrom that the value of the securities held on deposit is less than the actual value of the policies and annuity bonds issued by such company and then in force, it shall be unlawful for the Chairman of the Board of Insurance Commissioners to execute the certificate on any additional policies or annuity bonds of such company until it shall have made good the deficit. Any company depositing under the provisions of this chapter may increase its deposits at any time by making additional deposits of not less than Five Thousand (\$5,000.00) Dollars of such securities as are authorized by this chapter. Any such company whose deposits exceed the net value of all policies and annuity bonds it has in force less such liens (not exceeding such net value) as the company may hold against them, may withdraw such excess; and it may withdraw any of such securities at any time by depositing others of equal value and of the character authorized by this chapter in their stead; and it may collect the interest coupons, rents and other income on the securities deposited as the same accrue.

The securities deposited under this chapter by each company shall be placed and kept by the Board of Insurance Commissioners in some secure safe-deposit, fireproof box or vault in the city or town in or near which the home office of the company is located. The officers of the company shall have access to such securities for the purpose of detaching interest coupons and crediting payment and exchanging securities as above provided, under such reasonable rules and regulations as the Board of Insurance Commissioners may establish.

Art. 3.19. Fees for Making Deposits

Every company making deposit under the provisions of Article 3.16 of this code shall pay to the Life Insurance Commissioner of the State of Texas for each certificate placed on registered policies or annuity bonds issued by the company, after the original or first deposit is made hereunder, a fee of Twenty-five (25) Cents; and the fee so received shall be disposed of by the said Life Insurance Commissioner as follows:

1. The payment of the annual rental or hire of the safety deposit fireproof box or vault mentioned in Article 3.18.

2. The payment of the compensation and expense of a competent and reliable representative of the Life Insurance Commissioner, to be appointed by him, who shall have direct charge of the securities and safety deposit boxes containing the same, and through whom and under whose supervision the insurance company may have access to its securities for the purposes provided in this subchapter.

3. The payment of the expense incurred in connection with the certification, registration, and valuation of such policies or annuity bonds.

4. The balance of such fees shall be paid to the State Treasurer to the credit of the general fund.

SUBCHAPTER B. FOREIGN COMPANIES**Art. 3.20. Statement to be Filed**

Any life insurance company, or accident insurance company, or life and accident, health and accident, or life, health and accident insurance company, incorporated under the laws of any other state, territory or country, desiring to transact the business of such insurance in this State, shall furnish said Board of Insurance Commissioners with a written or printed statement under oath of the president or vice president, or treasurer and secretary of such company which statement shall show:

1. The name and locality of the company.
2. The amount of its capital stock.
3. The amount of its capital stock paid up.
4. The assets of the company, including: first, the amount of cash on hand and in the hands of other persons, naming such persons and their residence; second, real estate unincumbered, where situated and its value; third, the bonds owned by the company and how they are secured, with the rate of interest thereon; fourth, debts due the company secured by mortgage, describing the property mortgaged and its market value; fifth, debts otherwise secured, stating how secured; sixth, debts for premiums; seventh, all other moneys and securities.
5. Amount of liabilities of the company, stating the name of the person or corporation to whom liable.
6. Losses adjusted and due.
7. Losses adjusted and not due.
8. Losses adjusted.
9. Losses in suspense and for what cause.
10. All other claims against the company, describing the same.

The Board of Insurance Commissioners may require any additional facts to be shown by such annual statement. Each such company shall be required to file a similar statement not later than March 1 of each year.

Art. 3.21. Articles of Incorporation to be Filed

Any such foreign insurance company shall accompany the statement required in the foregoing article with a certified copy of its acts or

articles of incorporation, and all amendments thereto, and a copy of its by-laws, together with the name and residence of each of its officers and directors. The same shall be certified under the hand of the president or secretary of such company.

Art. 3.22. Capital Stock Requirements

No such foreign insurance company, shall transact any such business of insurance in this State, unless such company is possessed of at least One Hundred Thousand (\$100,000.00) Dollars of actual paid up cash money capital invested in such securities as provided under the laws of the state, territory, or country of its creation. No such foreign mutual insurance company operating on the old line or legal reserve basis, shall transact any business of insurance in this State, unless such company is possessed of at least One Hundred Thousand (\$100,000.00) Dollars of net surplus assets invested in securities provided for under the laws of the state, territory, or country of its creation.

Art. 3.23. Foreign Companies to Deposit

No such foreign insurance company incorporated by or organized under the laws of any foreign government, shall transact business in this State, unless it shall first deposit and keep deposited with the Treasurer of this State, for the benefit of the policyholders of such company, citizens or residents of the United States, bonds or securities of the United States or the State of Texas to the amount of One Hundred Thousand (\$100,000.00) Dollars.

Art. 3.24. Deposit Liable for Judgment

The deposit required by the preceding article shall be held liable to pay the judgments of policyholders in such company, and may be so decreed by the court adjudicating the same.

Art. 3.25 Law Deemed Accepted

Each life insurance company not organized under the laws of this State, hereafter granted a certificate of authority to transact business in this State, shall be deemed to have accepted such certificate and to transact such business hereunder subject to the conditions and requirements that, after it shall cease to transact new business in this State under a certificate of authority, and so long as it shall continue to collect renewal premiums from citizens of this State, it shall be subject to the payment of the same occupation tax in proportion to its gross premiums during any year, from citizens of this State, as is or may be imposed by law on such companies transacting new business within this State, under certificates of authority during such year. The rate of such tax to be so paid by any such company shall never exceed the rate imposed by law upon insurance companies transacting business in this State. Each such company shall make the same reports of its gross premium receipts for each such year and within the same period as is or may be required of such companies holding certificates of authority and shall at all times be subject to examination by the Board of Insurance Commissioners or some one selected by it for that purpose, in the same way and to the same extent as is or may be required of companies transacting new business under certificates of authority in this State, the expenses of such examination to be paid by the company examined. The respective duties of the Board in certifying to the amount of such taxes and of the State Treasurer and Attorney General in their collection shall be the same as are or may be prescribed respecting taxes due from companies authorized to transact new business within this State.

Art. 3.26. When Foreign Companies Need Not Deposit

If the deposit required by Article 3.23 of this code has been made in any State of the United States, under the laws of such State, in such manner as to secure equally all the policyholders of such Company who are citizens and residents of the United States, then no deposit shall be required in this State; but a certificate of such deposit under the hand and seal of the officer of such other State with whom the same has been made shall be filed with the Board of Insurance Commissioners.

Art. 3.27. Companies Desiring to Loan Money

Any life insurance company not desiring to engage in the business of writing life insurance in this State, but desiring to loan its funds in this State, may obtain a permit to do so from the Secretary of State by complying with the laws of this State relating to foreign corporations engaged in loaning money in this State, without being required to secure a certificate of authority to write life insurance in this State.

SUBCHAPTER C. RESERVES AND INVESTMENTS**Art. 3.28. Computation of Reserves**

(1) The Board of Insurance Commissioners, as soon as practicable in each year, shall compute or cause to be computed the reserve liability on the 31st day of December of the preceding year, of every company organized under the laws of this State, or authorized to transact business in this State, which has outstanding policies of insurance on the lives or persons of citizens of this State. In making such computations the Board may use group methods and approximate averages for fractions of a year or otherwise. The reserve liability of all outstanding policies of group insurance and of policies of insurance issued by mutual companies organized under the provisions of Chapter 11 of this code shall be computed in accordance with the laws relating specifically to such policies. The reserve liability of all other outstanding policies of insurance and annuity contracts shall be computed upon the net premium basis and in accordance with their terms and the following rules:

(a) As respects policies issued prior to the first day of January, 1910, the computation shall be on the basis of the American Experience Table of Mortality and four and one-half (4½%) per cent interest per annum.

(b) As respects policies issued after the 31st day of December, 1909, and prior to January 1, 1948, the computation shall be on the basis of the Actuaries' or Combined Experience Table of Mortality with four (4%) per cent interest per annum, if the interest rate guaranteed in the policy is four (4%) per cent per annum or higher. If any such policies were issued upon a reserve basis of an interest rate lower than four (4%) per cent per annum, then the computation shall be made on the basis of the American Experience Table of Mortality with interest at such lower specified rate.

(c) As respects policies issued after the 31st day of December, 1947, the computation shall be on the basis of the mortality table and interest rate specified in the respective policies, provided that (1) the specified rate of interest shall not exceed three and one-half (3½%) per cent per annum; (2) the specified table for policies other than policies of industrial life insurance shall be the American Experience Table of Mortality, the American Men Ultimate Table of Mortality, or the Commissioners 1941 Standard Ordinary Mortality Table; and (3) the specified table for policies of industrial life insurance shall be the American Experience

Table of Mortality, the Standard Industrial Mortality Table, the Sub-standard Industrial Mortality Table, the 1941 Standard Industrial Mortality Table, or the 1941 Sub-standard Industrial Mortality Table.

(d) As respects policies issued on sub-standard risks and annuity contracts and contracts or policies for disability benefits and accidental death benefits, the computation shall be on the basis of the standards and methods adopted by the respective companies and approved by the Board of Insurance Commissioners.

(2) If the gross premium charged by any life insurance company on any policy or contract is less than the net premium for the policy or contract, according to the mortality table, rate of interest and method used in computing the reserve liability thereon as aforesaid, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity, the amount of which shall equal the difference between the premium charged and such net premium required by the rules above stated and the term of which in years shall equal the number of annual premiums for the remainder of the premium paying period.

Art. 3.29. Extra Hazardous Policies

If any life insurance company doing business under the laws of this State has written or assumed risks that are sub-standard or extra hazardous and has charged therefor more than its published rates of premium, the Board of Insurance Commissioners shall in valuing such policies compute and charge such extra reserves thereon as is warranted by reason of the extra hazard assumed and the extra premium charged. If the Board of Insurance Commissioners shall find, after notice and hearing, that a particular risk or class of risks is sub-standard or extra hazardous, then and in that event no such company shall thereafter write or assume any such risks unless they charge therefor such extra premium as is warranted by reason of the extra hazard assumed.

Art. 3.30. The Board May Accept Reserve Computations of Other States

The Board of Insurance Commissioners may accept the computation of reserve liability made by the insurance commissioner of the state under whose authority a life insurance company was organized, when such computations have been properly made on sound and recognized principles, as a legal basis as above. The company shall furnish to such Board a certificate of the insurance commissioner of such states setting forth the reserve calculated on the data designated above of all the policies in force in the company on the previous thirty-first day of December, and stating that after all other debts of the company and claims against it at that time, and One Hundred Thousand (\$100,000.00) Dollars surplus to policyholders or such capital or surplus to policyholders as is otherwise required by law were provided for, the company had, in safe securities of the character required by the laws of this State, an amount equal to the reserves on all its policies in force, and that said company is entitled to do business in its own state.

Art. 3.31. Failure to File Certificate

If any such foreign insurance company shall fail to file the certificate authorized by the preceding article, it shall be required forthwith to file with the Board of Insurance Commissioners full detailed lists of its policies and securities and shall be liable for all charges and expenses consequent upon its failure so to file such certificate.

Art. 3.32. Requirement of Securities in Amount of Reserve

Having determined the required reserves on all the policies in force, the Board shall see that the company has in safe securities of the class and character required by the laws of this State the amount of said reserves on all its policies, after all its debts and claims against it and at least One Hundred Thousand (\$100,000.00) Dollars of surplus to policy holders or such capital or surplus to policyholders as is otherwise required by law have been provided for.

Art. 3.33. Required Investment in Texas Securities

Each life insurance company now engaged, or that may hereafter engage in transacting the business of life insurance in this State, shall, as a condition of its right to transact such business in this State, invest and keep invested in Texas securities and in Texas real estate, as hereinafter provided, a sum of money equal to at least seventy-five (75%) per cent of the aggregate amount of the legal reserve required by the laws of the state of its domicile, to be maintained on account of its policies of insurance in force written upon the lives of the citizens of this State, which reserve is hereafter denominated as its "Texas Reserves." And each such company, securing a certificate of authority to do business in this State, shall be deemed to have accepted such certificate subject to all the conditions and requirements of this chapter.

Art. 3.34. 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, 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, State educational institution, 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 upon real estate situated in this State and insured or guaranteed in whole or in part by the United States or any agency or instrumentality thereof, or by the State of Texas or any agency or instrumentality thereof, together with any bonds, debentures or other evidences of indebtedness of the United States or any agency or instrumentality thereof, or the State of Texas or any agency or instrumentality thereof, received and retained in whole or partial settlement of any such insurance or guarantee; 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 in no event in excess of the amount of bonds of the United States of America reported by said company as Texas securities in a Texas tax return covering the year 1946; 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 lease-

hold 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 liens.

The term "Texas Securities," as used in this chapter, shall also be held to include first lien notes or 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; obligations secured collaterally by the aforesaid bonds, warrants, notes, cash deposits and liens; 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 foregoing restrictions as to the value of the real estate security compared to the amount loaned thereon and as to the duration and dignity of such loans shall not be applied to loans if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States, or by the State of Texas or by any agency or instrumentality of either of them, or if not wholly so insured or guaranteed, the difference between the entire amount of the indebtedness and that portion thereof insured or guaranteed by the United States, or by the State of Texas or by any agency or instrumentality of either of them would not exceed the amount of loan permissible under the said restrictions.

The term "Texas Securities" shall also include insured accounts and evidences of indebtedness as defined and limited by Section 1, Chapter 618, page 1356, Acts of 47th Legislature¹ and Chapter 534, page 966, Acts 1949, 51st Legislature.²

¹ Article 842a.

² Article 881a—24.

Art. 3.35. Investments; How Made

The investments required by this chapter shall be made as follows:

1. Each life insurance company which had a certificate of authority to transact business in this State April 2, 1909, the total amount of whose investments in Texas securities as of December 31, 1908, was equal

to or exceeded seventy-five (75%) per cent of the amount of its Texas reserves as of that date, shall have so invested, not later than January 31, in each year, a sum of money equal to seventy-five (75%) per cent of the amount of its Texas reserves as of the preceding December 31.

2. Each life insurance company which had a certificate of authority to transact business in this State on April 2, 1909, the amount of whose investments in Texas securities as of December 31, 1908, was less than seventy-five (75%) per cent of the amount of its Texas reserves as of said date, shall have so invested, not later than January 31 in each year, a sum at least equal to seventy-five (75%) per cent of the amount by which its Texas reserves as of December 31 preceding exceeded the amount of its Texas reserves as of December 31, 1908, added to the amount of its total investments in Texas securities as of said date; and each such company, shall in addition, have so invested not later than January 31, 1910, a sum at least equal to ten (10%) per cent of the amount by which seventy-five (75%) per cent of its Texas reserves as of December 31, 1908, exceeded the amount of its investments in Texas securities as of said date, and annually thereafter it shall have invested, not later than January 31, an additional ten (10%) per cent of the amount of such excess, until the total amount of its investments in Texas securities shall at least equal seventy-five (75%) per cent of its Texas reserves.

3. Each life insurance company not having a certificate of authority to do business in this State on April 2, 1909, or that may thereafter discontinue writing new business under such certificate, shall, if it again obtain a certificate of authority to transact business in this State, be required to have invested in Texas securities annually as above provided, a sum equal to seventy-five (75%) per cent of its Texas reserves. If on December 31 preceding the issuance of such certificate of authority the amount of its investments in Texas securities was less than seventy-five (75%) per cent of the amount of its Texas reserves, it shall be required to have so invested annually as above provided, a sum equal to seventy-five (75%) per cent of the increase of its Texas reserves since December 31, last preceding the issuance of its certificate of authority added to the amount of its total investment in Texas securities as of said date; and in addition, it shall, not later than January 31 in each year after the issuance of its certificate of authority, have so invested ten (10%) per cent of the amount by which seventy-five (75%) per cent of its Texas reserves as of December 31 preceding the date of said certificate exceeded the amount of its total investments in Texas securities as of that date, and shall have invested annually thereafter, not later than January 31, an additional ten (10%) per cent of such excess, until the total amount of its investments in Texas securities shall at least equal seventy-five (75%) per cent of the amount of its Texas reserves. The proportionate amount of the Texas reserves required by this section to be invested in Texas securities as of any date shall thereafter be maintained. Such investment shall not be required to be made by any life insurance company after it has ceased to do the business of life insurance or to write policies of life insurance in this State.

Art. 3.36. Report of Reserves and Investments Required

Each life insurance company doing business in this State shall, not later than ten days after January 31 of each year, file with the Board of Insurance Commissioners on a blank prepared and furnished by it for that purpose, a report showing the entire amount of the reserve on its entire business in force in this State on December 31, preceding, and an itemized schedule of its investments in Texas securities, which re-

port shall be sworn to by either the president or vice president and the secretary of such company. Such report shall contain such other information as may be required by the Board to determine whether or not such company has continuously and in good faith complied with this law; and for that purpose the Board may, whenever it shall deem it proper, require such special or supplementary reports as it may deem necessary.

Art. 3.37. Not to Apply to Certain Companies

The provisions of this chapter requiring investments in Texas securities shall not apply to any life insurance company, the total amount of whose Texas reserves does not exceed Five Thousand (\$5,000.00) Dollars, or to any such company doing only a reinsurance business in this State, but all other provisions of this chapter shall apply to such companies.

Art. 3.38. Not to Apply to Fraternal Societies

Nothing in this chapter shall be held to apply to fraternal benefit societies as defined by the laws of this State.

Art. 3.39. Authorized Investments for "Domestic" Companies

A life insurance company organized under the laws of this State may invest in or loan upon the following securities, and none other, viz:

1. It may invest any of its funds and accumulations in the bonds of the United States, the Dominion of Canada, or of any state, county, or city of the United States, or any province or city of the Dominion of Canada; or in any bonds, or interest-bearing warrants issued by authority of law by any county, city, town, school district, or other municipality or subdivision 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, including revenue and special obligations, of any educational institution of the State of Texas; or any municipally owned water system or sewer system when special revenues, or income 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, 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 which has not defaulted in the payment of any debt within five (5) years next preceding such investment; or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; 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 prior 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;¹ or in insured accounts and evidences of indebtedness as defined and limited by Section 1, Chapter 618, page 1356, Acts of 47th Legislature;² in shares or share accounts as authorized in Section 1, page 76, Acts 1939, 46th Legislature;³ or in insured or guaranteed obligations as authorized in Chapter 230, page 315, Acts 1945, 49th Legislature;⁴ or in bonds issued under the provisions authorized by Section 9, Chapter 231, page 774, Acts 1933, 43rd Legislature;⁵ or in bonds under authority of Section 1, Chapter 1, page 427, Acts 1939, 46th Legislature;⁶ or in bonds and other indebtednesses as authorized in Section 1, Chapter 3, page 494, Acts 1939, 46th Legislature;⁷ or in bonds as authorized by Section 5, Chapter 122, page 219, Acts 1949, 51st Legislature;⁸ or in bonds as authorized by Section 10, Chapter 159, page 326, Acts 1949, 51st Legislature;⁹ or in bonds as authorized by Section 19, Chapter 340, page 655, Acts 1949, 51st Legislature;¹⁰ or in bonds as authorized by Section 10, Chapter 398, page 737, Acts 1949, 51st Legislature;¹¹ or in bonds as authorized by Section 18, Chapter 465, page 855, Acts 1949, 51st Legislature;¹² or in shares or share accounts as authorized in Chapter 534, page 966, Acts 1949, 51st Legislature;¹³ or in bonds as authorized by Section 24, Chapter 110, page 193, Acts 1949, 51st Legislature,¹⁴ together with such other investments as are now or may hereafter be specifically authorized by law.

Any company legally authorized to transact business in a foreign country may invest in the same kinds of securities of said country as hereinbefore authorized in the United States of America for an aggregate amount not exceeding the reserve on the business in force in said country.

2. It may loan any of its funds and accumulations, taking as security therefor such collateral as under the previous subdivision it may invest in. It may also make loans upon first liens upon real estate, the title to which is valid and the value of which is forty (40%) per cent more than the amount loaned thereon, or upon first liens upon leasehold estates in real property and improvements, situated thereon, the title to which is valid, and the leasehold has not less than thirty (30) years to run before expiration; provided that the duration of any loan upon such leasehold estates shall not exceed a period of ten (10) years; or upon any obligation secured collaterally by any such first liens. If any part of the value of such real estate is in buildings, such buildings shall be insured against loss by fire for at least fifty (50%) per cent of the value thereof with loss clause payable to such company. It may also make loans upon the security of or purchase of its own policies. No loan on any policy shall exceed the reserve values 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 foregoing re-

restrictions as to the value of the real estate security compared to the amount loaned thereon and as to the duration of such loans shall not be applied to loans if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States, or by the State of Texas, or, if not wholly insured or guaranteed, the difference between the entire amount of the indebtedness and that portion thereof insured or guaranteed by the United States, or by the State of Texas, would not exceed the amount of loan permissible under the said restrictions.

3. It may invest its policy reserves and surplus over and above its capital in "Municipal Bonds" issued under and by virtue of Chapter 280, Acts 1929, 41st Legislature.¹⁵

4. It may invest its capital, surplus, and contingency funds over and above the amount of its policy reserves in the capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment, or in the bonds or notes of any educational or religious corporation where provision has been made for the payment of a sufficient amount of the first weekly or monthly revenues thereof to an interest and sinking fund account in a bank or trust company as an independent paying agent; and it may loan its capital, surplus, and contingency funds or any part thereof, over and above the amount of its policy reserves, taking as security therefor any of the above mentioned capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any such corporation, the current market value of which such stock, 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 per cent (50%) more than the sum loaned thereon; provided that it shall not invest in nor take as collateral security for any loan its own capital stock nor more than ten per cent (10%) of the amount of its capital, surplus, and contingency funds in the stock of any one corporation, nor in the stock of any manufacturing corporation with a capital stock of less than Twenty-five Thousand Dollars (\$25,000) nor in the stock of any oil corporation with a capital stock of less than Five Hundred Thousand Dollars (\$500,000); and provided further, that it shall not invest any of its funds nor take as collateral security any stock on account of which the holder or owner thereof may in any event be or become liable to any assessment except for taxes.

In any case in which a life insurance company organized under the laws of this State shall re-insure 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 investments upon such notice as it may deem reasonable.

5. It may invest not to exceed ten (10%) per cent of its capital, surplus, and contingency funds, in not more than twenty (20%) per cent of the capital stock of any other insurance company, now or hereafter organized under this chapter, whose principal business is the reinsurance, either partially or wholly, of risks ceded to it by other life insurance companies. The investment herein authorized may be made by purchase of stock then issued and outstanding or by subscription to and payment for the increase in the capital stock of such reinsurance corporation.

6. It may invest any of its funds and accumulations in shares or share accounts of building and loan associations organized under the laws of this State, or in the shares or share accounts of federal savings and loan associations, where such shares are insured under and by virtue of the Federal Savings and Loan Insurance Corporation; and in the stock of banks, either state or national, that are members of the Federal Deposit Insurance Corporation; provided, however, that under this Section 6, and except as authorized in Section 4 of this article, no more than five (5%) per cent of the admitted assets of the insurance company making the investment may be made in such shares or share accounts of building and loan associations or savings and loan associations or in the stock of such banks and no such investment shall exceed twenty (20%) per cent of the total outstanding shares of any such individual building and loan association, savings and loan association, or stock of such bank. The investment powers conferred by this Section 6 are in addition to those conferred by Section 4 of this article and are not to be construed as restricting the powers already granted by said Section 4, and this Section 6 and the powers conferred herein are cumulative with respect to the said Section 4 and the powers conferred therein.

7. It may invest any of its funds and accumulations in the debentures of any solvent public utility corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment provided such corporation has succeeded to the business and assets and has assumed the liabilities of another such corporation, and which public utility corporation and public utility corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; provided further, that such public utility corporation shall not have failed in any one of the five (5) years next preceding such investment to have earned, after taxes, including income taxes, and after deducting proper charges for replacements, depreciation and obsolescence, a sum applicable to interest on its outstanding indebtedness equal at least to three times the amount of interest due for that year, or where, in the case of issuance of new debentures, such earnings applicable to interest are equal to at least three times the amount of annual interest on such public utility corporation's obligations after giving effect to such new financing; or, in the case of a public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment but has succeeded to the business and assets and has assumed the liabilities of another such corporation, and which public utility corporation and the public utility corporation so succeeded have not failed in any one of the five (5) years next preceding such investment to have earned, after taxes, including income taxes, and after deducting proper charges for replacements, depreciation and obsolescence, a sum applicable to interest on the outstanding indebtedness equal at least to three times the amount of interest due for that year, or where in the case of issuance of new debentures such earnings applicable to interest are equal to at least three times the amount of annual interest on

such public utility corporation's obligations after giving effect to such new financing; but in no event shall the amount of such investment in debentures under this subdivision exceed five (5%) per cent of the admitted assets of the insurance company making the investment.

8. It may invest any of its funds and accumulations in the preferred stock of any solvent public utility corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which public utility corporation and the public utility corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; provided further, that such public utility corporation shall not have failed in any one of the five (5) years next preceding such investment to have earned a sum applicable to the dividends on such preferred stock equal at least to three times the amount of dividends due in that year, or, in the case of issuance of new preferred stock, such earnings applicable to dividends are equal at least to three times the amount of the annual dividend requirements after giving effect to such new financing, and where the bonds and debentures are eligible investments for such insurance company; or, in the case of a public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment, but has succeeded to the business and assets and has assumed the liabilities of another such corporation, and which public utility corporation and the public utility corporation so succeeded have not failed in any one of the five (5) years next preceding such investment to have earned a sum applicable to the dividends on such preferred stock equal at least to three times the amount of dividends due in that year, or, in the case of issuance of new preferred stock, such earnings applicable to dividends are equal at least to three times the amount of the annual dividend requirements after giving effect to such new financing, and where the bonds and debentures are eligible investments for such insurance company; provided that any preferred stock so purchased shall be of an issue which is entitled to first claim upon the net earnings of such public utility corporation after deducting such sum as may be necessary to service any outstanding bonds and debentures, but in no event shall the amount of such investment in preferred stock under this subdivision exceed two and one-half (2½%) per cent of the admitted assets of the insurance company making the investment.

1 Article 2603d.

2 Article 842a.

3 Article 881a—24.

4 Article 824a—1.

5 Article 1187a, § 9.

6 Article 1269k—1.

7 Article 5890c.

8 Article 6795b—1, § 7b.

9 Article 8197f.

10 Article 8197f.

11 Article 8197f.

12 Article 8197f.

13 Article 881a—24.

14 Article 8197f.

15 Article 7880—19a.

The provisions of Senate Bill No. 296, Acts 1951, 52nd Leg., p. 546, ch. 322, amending paragraph 3 of Article 4725 of Vernon's Texas Civil Statutes, were included in the enrolled bill of Senate Bill No. 236, Article 3.39, paragraph 4, constituting the Insurance Code, by the Enrolling Clerk of the Senate pursuant to House Concurrent Resolution No. 179.

Art. 3.40. May Hold Real Estate

Every such insurance company may secure, hold and convey real property only for the following purposes and in the following manner:

1. One building site and office building for its accommodation in the transaction of its business and for lease and rental; and such office building may be on ground which the company owns a lease having not

less than fifty (50) years to run from the date of its acquisition by the company, provided that the company shall own, or be entitled to the use of, all the improvements thereon, and that the value of such improvements shall at least equal the value of the ground, and shall be not less than twenty (20) times the annual average ground rental payable under such lease; and provided, such office building shall have an annual average net rental of at least twice such annual ground rental; and, provided, further, that such company shall be liable for and shall pay all State and local taxes levied and assessed against such ground and the improvements thereon which for purposes of taxation, shall be deemed real estate owned by the company. Provided, that an acquisition of such an office building on leased ground shall be approved by the Board of Insurance Commissioners before such investment.

2. Such as have been acquired in good faith by way of security for loans previously contracted or for moneys due.

3. Such as have been conveyed to it in the satisfaction of debts previously contracted in the course of its dealings.

4. Such as have been purchased at sales under judgment or decrees of court, or mortgage or other liens held by such companies.

All such real property specified in subdivisions 2, 3 and 4 of this article which shall not be necessary for its accommodation in the convenient transaction of its business shall be sold and disposed of within five (5) years after the company shall have acquired title to the same, or within five (5) years after the same shall have ceased to be necessary for the accommodation of its business. It shall not hold such property for a longer period, unless it shall procure a certificate from the Board that its interest will suffer materially by the forced sale thereof; in which event the time for the sale may be extended to such time as the Board shall direct in such certificate.

Art. 3.41. Authorized Investments in Securities or Property for Foreign Companies

The assets of any "foreign company" shall be invested in securities or property of the same classes permitted by the laws of this State as to "domestic" companies or by other laws of this State in other securities approved by the Board of Insurance Commissioners as being of substantially the same grade.

SUBCHAPTER D. POLICIES AND BENEFICIARIES

Art. 3.42. Form of Policies to Be Filed

Life insurance companies shall, within five (5) days after the issuance of, and the placing upon the market, any form of policies of life insurance, file a copy of such form of policy with the Board of Insurance Commissioners.

Art. 3.43. Board to Approve Certain Forms

No insurance company transacting business in this State shall hereafter be permitted to issue or sell any policy of industrial life insurance, or any policy of accident or health insurance, until the form thereof has been submitted to the Board of Insurance Commissioners.

If the Board shall approve the form of such policy as complying with the laws of this State, the same may thereafter be issued and sold. If the Board shall disapprove the same, any such company may institute a proceeding in any court of competent jurisdiction to review its action thereon.

Art. 3.44. Policies Shall Contain Certain Provisions

No policy of life insurance shall be issued or delivered in this State, or be issued by a life insurance company organized under the laws of this State, unless the same shall contain provisions substantially as follows:

1. That all premiums shall be payable in advance either at the home office of the company or to an agent of the company upon delivery of a receipt signed by one or more of the officers who are designated in the policy.

2. For a grace of at least one month, for the payment of every premium after the first, which may be subject to an interest charge, during which month the insurance shall continue in force, which may stipulate that if the insured shall die during the period of grace the overdue premium will be deducted in any settlement under the policy.

3. That the policy, or policy and application, shall constitute the entire contract between the parties and shall be incontestable not later than two years from its date, except for non-payment of premiums; and which provision may or may not, at the option of the company, contain an exception for violations of the conditions of the policy relating to naval and military services in time of war.

4. That all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties.

5. That if the age of the insured has been understated, the amount payable under the policy shall be such as the premium paid would have purchased at the correct age.

6. That after three (3) full years' premiums have been paid, the company, at any time while the policy is in force, will advance upon proper assignment of the policy and upon the sole security thereof at a specified rate of interest a sum equal to, or at the option of the owner of the policy less than, the cash value of the policy and of any dividend additions thereto; and that the company may deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premiums for the current policy year, and may collect interest in advance on the loan to the end of the current policy year, which provision may also provide that such loans may be deferred for not exceeding six (6) months after the application therefor is made. It shall also be stipulated in the policy that failure to repay any such advance, or to pay interest, shall not void the policy until the total indebtedness thereon to the company shall equal or exceed the cash value. No condition other than as herein provided shall be exacted as a prerequisite to any such advance. This provision shall not be required in term insurance, nor in pure endowments issued or granted as original policies, or in exchange for lapsed or surrendered policies.

7. A provision which, in the event of default in the premium payments after premiums shall have been paid for three (3) full years, shall secure a stipulated form of insurance on the life of the insured, the net value of which shall be equal to the reserve (exclusive of any reserve for disability or accidental death benefits) at the date of default on the policy, and on any dividend additions thereto, according to the mortality table, rate of interest and method adopted for computing such reserve, less a sum of not more than two and one-half (2½) per cent of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy; provided, however, that if the mortality table adopted for computing such reserve is either the American Men Ultimate Table of Mortality or the Commissioners 1941 Standard Ordinary Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than one hundred thirty (130%) per cent of the rate of mortality according to such adopted

table or, in case of sub-standard policies, the adopted multiple thereof. The policy shall state: (1) the amount and term of the stipulated form of insurance calculated upon the assumption of no indebtedness on the policy and no dividend additions thereto; and (2) the method, rate of interest, and mortality table for computing the policy reserve, which must be such as may be authorized by law for use in computing the reserve liability of the company on such policy. Such provision shall also stipulate that the policy may be surrendered to the company at its home office within one month from the due date of any premium for its cash value, which shall be specified in the policy and which shall be at least equal to the sum which would otherwise be available for the purchase of insurance, as aforesaid, but not more than the reserve on the policy, and may stipulate that the company may defer payment for not more than six (6) months after the application therefor is made. This provision shall not be required in term insurance.

8. A table showing in figures the cash values, and the options available under the policy each year, upon default in premium payments during the first twenty (20) years of the policy or the period during which premiums are payable, beginning with the year in which such values and options become available.

9. That if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurances; and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three (3) years from such default upon evidence of insurability satisfactory to the company and payments of arrears of premiums with interest.

10. That when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of or not later than two (2) months after due proof of death and the right of the claimant to the proceeds.

11. A table showing the amounts of installments in which the policy may provide its proceeds may be payable.

Any foregoing provision, not applicable to single premium policies shall, to that extent, not be incorporated therein.

12. In all family group life insurance policies there shall be included on the face of the policy the name and age of each insured; the name of the beneficiary; the maximum amount which is payable to the payee in the policy in the case of death of such insured person or persons together with a designation of all paragraphs or provisions limiting or reducing the payment to less than the maximum provided in the policy. Regardless of what the maximum amount of said policy is or may be, any provision for payment other than the full amount of said policy shall be clearly stated in the policy, and this provision shall apply to all such family group life insurance policies sold in this State.

Art. 3.45. Policies Shall Not Contain Certain Provisions

No policy of life insurance shall be issued or delivered in this State, or be issued by a life insurance company incorporated under the laws of this State, if it contains any of the following provisions:

1. A provision limiting the time within which any action at law or in equity may be commenced to less than ¹ two (2) years after the cause of action shall accrue.

2. A provision by which the policy shall purport to be issued or to take effect more than six (6) months before the original application for the insurance was made, if thereby the insured would rate at any age

younger than his age at date when the application was made, according to his age at nearest birthday.

3. A provision for any mode of settlement at maturity of less value than the amounts insured on the face of the policy, plus dividend additions, if any, less any indebtedness to the company on the policy, and less any premium that may by the terms of the policy be deducted; 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 Board of Insurance Commissioners, as provided in this chapter. This provision shall not apply to purely accident and health policies. No foregoing provision relating to policy forms shall apply to policies issued in lieu of, or in exchange for, any other policies issued before July 10, 1909.

¹ So in enrolled bill. Probably should be, "than."

Art. 3.46. Level Premium Policies

No level premium policy of life insurance shall be issued or sold by any company in this State which provides for more than one year preliminary term insurance.

Art. 3.47. Policies of Foreign Companies

The policies of a life insurance company not organized under the laws of this State may contain any provision which the law of the state, territory, district or county under which the company is organized, prescribes shall be in such policies when issued in this State; and the policies of a life insurance company organized under the laws of this State may, when issued or delivered in any other state, territory, district or county contain any provision required by the laws of the state, territory, district or county in which the same are issued, anything in this chapter to the contrary notwithstanding.

Art. 3.48. Payments to Designated Beneficiaries

Whenever any person shall procure the issuance of a policy of insurance on his or her life in any legal reserve life insurance company, and designate in writing filed with the company the beneficiary to receive the proceeds thereof, the company issuing such policy shall, in the absence of the receipt by it of notice of an adverse claim to the proceeds of the policy from one having a bona fide legal claim to such proceeds or a part thereof, pay such proceeds becoming due on the death of the insured to the person so designated as beneficiary, and such payment so made, in the absence of such notice received by the insurance company prior to the date of the payment of the proceeds, shall discharge the company from all liability under the policy.

The provisions of this article shall apply to all policies now in existence as well as to all policies hereafter written.

Art. 3.49. Statutory Life Insurance Beneficiaries

Any corporation, partnership, joint stock association or any trust estate doing business for profit, may be named beneficiary in any policy of insurance issued by a legal reserve life insurance company on the life of any officer or stockholder of said corporation, joint stock association or trust estate; or any partnership or member thereof may be the beneficiary in any policy of insurance issued by a legal reserve life insurance company upon the life of any member of said partnership; or any religious, educational, eleemosynary, charitable or benevolent institution or undertaking

may be named beneficiary in any policy of life insurance issued by any legal reserve life insurance company upon the life of any individual. The beneficiaries aforementioned shall have an insurable interest for the full face of the policy and shall be entitled to collect same. On all policies of life insurance heretofore issued by legal reserve companies in which any of the aforementioned shall have been designated beneficiaries in the policies, said beneficiaries shall have an insurable interest to the full extent of the face of the policy and be entitled to collect same.

SUBCHAPTER E. GROUP, INDUSTRIAL AND CREDIT INSURANCE

Art. 3.50. Group Life Insurance

Sec. 1. Definitions.—No policy of group life insurance shall be delivered in this State unless it conforms to one of the following descriptions:

(1) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's fund or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five (75%) per cent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least twenty-five (25) employees at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees. No policy may be issued which provides insurance on any employee which together with any other insurance under any group life insurance policies issued to the employer or to the trustees of a fund established by the employer exceeds Twenty Thousand (\$20,000.00) Dollars.

(2) A policy issued to a labor union, which shall be deemed the employer and policyholder, to insure the members of such union who are actively engaged in the same occupation and who shall be deemed to be the employees of such union within the meaning of this article.

(3) A policy issued to an independent school district, incorporated city, town or village which has assumed control of the public school system within such municipality, State colleges or universities, any association of State employees, any association of State and County employees, and any department of the State Government, which employer or association shall be deemed the policyholder, to insure the employees of any such independent school district and of the public school system of any such municipality, of any such State colleges and universities, of any such department of the State Government, members of any association of State employees, and members of any association of State and County employees for the benefit of persons other than the policyholder subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer or all of any class or classes thereof determined by conditions pertaining to their employment.

(b) The premium for the policy shall be paid by the policyholder wholly from funds contributed by the insured employees; provided, however, that any moneys or credits received by or allowed to the policyholder pursuant to any participation agreement contained in or issued in connection with the policy shall be applied to the payment of future premiums and to the pro rata abatement of the insured employees' contributions therefor; and provided further, that the employer may deduct from the employees' salaries the required contributions for the premiums when authorized in writing by the respective employees so to do. Such policy may be placed in force only if at least seventy-five (75%) per cent of the eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium contributions and become insured thereunder.

(c) The policy must cover at least twenty-five (25) employees at date of issue.

(d) The amounts of insurance under the policy must be based on some plan precluding individual selection either by the employees or by the policyholder.

(4) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all members of a group of persons numbering not less than fifty (50) at all times, who became borrowers from one financial institution, or who became 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 respective indebtedness to said financial institution or vendor, but not to exceed Ten Thousand (\$10,000.00) Dollars on any one life.

(b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or both.

(c) The insurance issued shall not include annuities or endowment insurance.

(d) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

Sec. 2. Group Life Insurance Standard Provisions.—No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the Board of Insurance Commissioners of the State of Texas and formally approved by such Board, nor shall any policy of group life insurance be delivered in this State unless it contains, in substance the following provisions, or provisions which in the opinion of the Commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder, provided, however, (a) that provisions (6) to (10) inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor; (b) that the standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and (c) that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a non-forfeiture provision or provisions which in the opinion of the Commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same non-forfeiture provisions as are required for individual life insurance policies:

(1) A provision that the policyholder is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

(2) A provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two (2) years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two (2) years during such person's lifetime nor unless it is contained in a written instrument signed by him.

(3) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

(5) A provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

(6) A provision that any sum becoming due by reason of the death of a person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary as to all or any part of such sum living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding Two Hundred and Fifty (\$250.00) Dol-

lars to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

(7) A provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in (8), (9), and (10) following.

(8) A provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination, and provided further that:

(a) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

(b) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, provided that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purpose of this provision, be included in the amount which is considered to cease because of such termination; and

(c) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

(9) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five (5) years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by (8) above, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of (a) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one (31) days after such termination, and (b) Two Thousand (\$2,000.00) Dollars.

(10) A provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with (8) or (9) above and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

Sec. 3. Reserve Values.—The reserve values of all policies of group insurance issued prior to May 15, 1947 shall be computed upon the basis of the American Men Ultimate Table of Mortality with interest at the

rate of three (3%) per cent or three and one-half (3½%) per cent per annum as provided in such policies. The reserve values of all policies of group insurance issued on and subsequent to May 15, 1947 shall be computed upon the basis of either the American Men Ultimate Table of Mortality or The Commissioner's 1941 Standard Ordinary Mortality Table with interest at a rate not in excess of three and one-half (3½%) per cent per annum as provided in such policies.

Sec. 4. Group Policies Unlawful Except as Authorized.—Except as may be provided in this article, it shall be unlawful to make a contract of life insurance covering a group in this State, and the license to do business in Texas of any company making a contract of life insurance covering a group in this State except as may be provided in this article may be forfeited by a suit brought for that purpose by the Attorney General of the State of Texas at the request of the Board of Insurance Commissioners.

Sec. 5. Reserve Value.—The reserve values of all policies of group insurance issued prior to January 1, 1948, shall be computed upon the basis of the American Men Ultimate Table of Mortality, with interest at the rate of three (3%) per cent or three and one-half (3½%) per cent per annum, as provided in such policies. The reserve values of all policies of group insurance issued subsequent to December 31, 1947, shall be computed upon the basis of either the American Men Ultimate Table of Mortality or the Commissioners 1941 Standard Ordinary Mortality Table, with interest at a rate not in excess of three and one-half (3½%) per cent per annum, as provided in such policies.

Art. 3.51. Group Insurance For Employees of State and Its Subdivisions and College and School Employees

Sec. 1. The State of Texas and each of its political, governmental and administrative subdivisions, departments, agencies, association of public employees, and the governing boards and authorities of each State university, college, common and independent school districts or of any other agency or subdivision of the public school system of the State of Texas are authorized to procure contracts insuring their respective employees or any class or classes thereof under a policy or policies of group health, accident, accidental death and dismemberment, and hospital, surgical, and/or medical expense insurance. The dependents of any such employees may be insured under group policies which provide hospital, surgical and/or medical expense insurance. The employees' contributions to the premiums for such insurance issued to the employer or to an association of public employees as the policyholder may be deducted by the employer from the employees' salaries when authorized in writing by the respective employees so to do.

Sec. 2. All group insurance contracts effected pursuant hereto shall conform and be subject to all the provisions of any existing or future laws concerning group insurance.

Art. 3.52. Industrial Life Insurance

Sec. 1. Definitions.—For the purposes of this article, industrial life insurance shall mean that form of life insurance either

- (a) under which the premiums are payable weekly, or
- (b) under which the premiums are payable monthly or oftener, but less often than weekly, if the face amount of insurance provided in the policy is not more than One Thousand (\$1,000.00) Dollars; provided that in either case the words "Industrial Policy" are printed on the face of the policy as part of the descriptive matter thereof. When an indus-

trial life insurance policy is issued providing for accident and health benefits, in addition to natural death benefits, the provisions of this article shall apply only to the life insurance benefits provided in the policy, except as hereinafter otherwise specifically provided.

Sec. 2. Required Policy Provisions.—No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:

(a) A provision that the insured is entitled to a stated period of grace of at least four (4) weeks within which the payment of any premium after the first may be made. During such period of grace the policy shall continue in full force, but in case the policy becomes a claim during the grace period, before the overdue premiums are paid, the amount of overdue premiums may be deducted in any settlement under the policy.

(b) A provision that the policy shall constitute the entire contract between the parties, but if the insurer desires to make the application a part of the contract it may do so, provided a copy of such application shall be endorsed upon or attached to the policy when issued, and in such case the policy shall contain a provision that the policy and the application therefor shall constitute the entire contract between the parties. The policy shall also contain a provision that all statements made by the insured or on his behalf shall in the absence of fraud be deemed representations and not warranties.

(c) A provision that the policy shall be incontestable not later than two (2) years from its date, except for nonpayment of premiums, and except for violation of the conditions of the policy, if any, relating to naval or military service in time of war, and except as to provisions and conditions granting or relating to benefits in the event of total or permanent disability as defined in the policy, and those granting or relating to additional insurance specifically against death by accident or by accidental means, or to additional insurance against loss of, or loss of use of, specific members of the body.

(d) A provision that if the age of the insured has been misstated, the amount payable under the policy shall be such as the premium would have purchased at the correct age.

(e) A provision that in event of default in premium payments after premiums shall have been paid for three (3) full years there shall be available a stipulated form of insurance effective from the due date of the defaulted premium; and in event of default in premium payments after premiums shall have been paid for five (5) full years there shall be available, in lieu of the stipulated form of insurance, at the option of the insured, a specified cash surrender value. The net value of the stipulated form of insurance, and the specified cash surrender value, shall not be less than the reserve on the policy at the end of the last completed quarter of the policy year for which premiums shall have been paid, including the reserve for any paid-up additions thereto and the amount of any dividends standing to the credit of the policy, and excluding any reserve on total and permanent disability, as defined in the policy, and additional accidental death benefits, less a sum of not more than:

(1) Two and one-half (2½%) per cent of the maximum amount insured by the policy and dividend additions thereto, if any, when the issue age is under ten (10) years;

(2) Two and one-half (2½%) per cent of the current amount insured by the policy and dividend additions thereto, if any, when the issue age is ten (10) years or older; and less any existing indebtedness to the insurer on or secured by the policy.

If the mortality table adopted for computing such reserve is the 1941 Standard Industrial Mortality Table or the 1941 Substandard Industrial

Mortality Table, then in calculating the value of the paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than one hundred thirty (130%) per cent of the rate of mortality according to the table used. The policy shall state the amount and term of the stipulated form of insurance calculated upon the assumption of no indebtedness on the policy and no dividend additions thereto.

The policy may be surrendered to the insurer at its home office within the period of grace after the due date of the defaulted premium for the specified cash surrender value, provided that the insurer may defer payment for not more than six (6) months after the application therefor is made. In the event that application, which must be in writing, for a stipulated form of insurance or the specified cash surrender value when the same are available, is not made within the grace period, it shall be provided that a stipulated form of insurance shall automatically become effective.

(f) A provision specifying the mortality table, rate of interest, and method of valuation if other than net level premium; adopted for computing the life insurance reserves on the contract.

(g) A table showing in figures the nonforfeiture options available under the policy at the end of each year upon default in premium payments during the premium paying period, but not to exceed the first twenty (20) years of the policy. Such table is to begin with the year in which such values become available. At the expiration of the period for which such values are shown in the policy, the insurer will furnish upon request an extension of such table.

(h) A provision that the policy may be reinstated within one (1) year, or, at the option of the insurer, within fifty-two (52) weeks from the date of default in payment of premiums, unless the cash surrender value has been paid or the period of extended insurance has expired, upon payment of all overdue premiums, the payment or reinstatement of any other indebtedness due to the insurer upon said policy, and upon the presentation of evidence of insurability satisfactory to the insurer. The overdue premiums may, at the option of the insurer, be subject to interest at a rate not exceeding six (6%) per cent per annum as may be specified in the policy.

(i) A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of, at the insurer's home office, or not later than two (2) months after such receipt of, proof of death satisfactory to the insurer and the right of the claimant to the proceeds.

(j) A title on the face of the policy briefly describing its form.

(k) In the case of an insurer issuing participating policies in this State, a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy.

(l) A provision that no agent shall have the power or authority to waive, change, or alter any of the terms or conditions of any application or any policy delivered or issued for delivery pursuant to the terms of this Article.

Any of the provisions of Section 2, or portions thereof, not applicable to nonparticipating or term policies shall, to that extent, not be incorporated therein.

The provisions of Section 2 shall not apply to policies issued or granted pursuant to the nonforfeiture provisions prescribed in clause (e) of said Section, nor shall clauses (e) and (g) of said Section be required in term insurances of twenty (20) years or less.

Sec. 3. Application to Existing Policies.—Any policy of industrial life insurance delivered or issued for delivery in this State prior to March 29, 1941, and pursuant to the provisions of Article 3.43, and upon which premiums have been paid for three (3) full years, which does not by its terms secure, upon default in payments of premiums, to the insured or beneficiary thereof, a stipulated form of insurance, shall nevertheless entitle such insured or beneficiary to either extended or paid-up insurance, the net value of which shall be determined as is provided in clause (e) of Section 2 of this article, providing such insured or beneficiary elects and notifies the home office of the insurer in writing, prior to the expiration of the period of extended insurance, which of said two (2) forms he has elected to take; and any such insured or beneficiary failing to elect and notify the insurer in writing of such election within such time shall be deemed to have elected extended insurance.

Sec. 4. Authorized Provisions.—In addition to the provisions required by Section 2, any policy of industrial life insurance delivered or issued for delivery in this State may contain, in substance, the following provisions, in addition to any other provision or provisions not elsewhere prohibited by this Article:

(a) A provision excluding liability or promising a benefit less than the full amount payable as a death benefit in case of the death of the insured by his own hand while sane or insane, or by following stated hazardous occupations.

(b) A provision limiting the maximum amount payable on the death of an infant under fifteen (15) years of age.

Sec. 5. Prohibited Provisions.—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 of this code.

Sec. 6. Approval of Policy, Rider, Endorsement, Etc., By Board of Insurance Commissioners.—No insurance company transacting business in this State shall hereafter deliver or issue for delivery in this State any policy of industrial life insurance, or any policy of industrial life insurance providing for accident and health benefits in addition to natural death benefits, or attach to, or print or stamp upon such policy, any rider, or endorsement, until the form of such policy, rider, or endorsement has been submitted to and approved by the Board of Insurance Commissioners of the State of Texas. It shall be the duty of the Board of Insurance Commissioners to disapprove any such policy, rider, or endorsement if it violates any of the provisions of this article, and to give written notice to the insurer of such disapproval in which notice the Board shall specify the particulars in respect to which the policy, rider, or en-

dorsement violates the provisions of this article. If the Board of Insurance Commissioners shall disapprove any such policy, rider, or endorsement; the insurer may, within ninety (90) days after the mailing of the written notice of such disapproval by the Board, institute proceedings in the District Court of Travis County, Texas, to review the action of the Board thereon.

Sec. 7. Associations Excepted.—This article shall not apply to local mutual aid associations or state-wise mutual life, health, and accident companies and burial associations operating under Chapter 14 of this code, but this article and no other shall apply to and govern the form and content of industrial life insurance policies as they are defined herein, issued by all other insurance companies.

Sec. 8. Certain Non-Profit Organizations Excepted.—Nothing contained in this article shall be so construed as to affect or apply to orders, societies, associations, or labor organizations which admit to membership only persons engaged in one or more crafts or hazardous occupations in the same or similar lines of business, and who do not operate for profit; nor shall this article apply to the ladies' societies or ladies auxiliaries to such orders, societies, associations, or labor organizations, nor to fraternal orders, associations, and societies.

Art. 3.53. Credit Life Insurance and Credit Health and Accident Insurance

Sec. 1. Definitions.—The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context:

A. "Insurer" means any company, corporation, Lloyds, reciprocal, fraternal, inter-insurance exchange, mutual assessment association, or other insurance carrier licensed to transact an insurance business in this State.

B. (1) "Credit Life Insurance," and "Credit Health and Accident Insurance" mean personal insurance in which the insured are borrowers of sums of money not exceeding One Thousand (\$1,000.00) Dollars from lenders who retain an interest in the insurance as security to the loan, and any other personal insurance written in connection with or as part of such loan transaction. "Credit Health Insurance" and "Credit Health and Accident Insurance" as used in this article shall never be taken to mean or refer to any contract insuring performance of any undertaking or agreement, and are expressly limited in their coverage to the contingencies of death or loss resulting from sickness and accident.

(2) The provisions of this article shall apply only to the writing of "Credit Life Insurance" and "Credit Health and Accident Insurance" as defined in this article, both as to "Insurer" and "Insurance Agent" and "Lender Agent" as defined in this article.

C. "Insurance Agent" means any person, firm, or association of persons now or hereafter required by law to be licensed as an insurance agent.

D. "Lender Agent" means any insurance agent who may also be in the business of making loans individually or as employee, agent, or officer of any person, corporation, or association of persons in the loan business.

E. "Lender" means any person, firm, corporation or association of persons engaged in the business of making loans.

F. "Loan" shall mean the total indebtedness of the borrower to the lender, whether evidenced by one or more promissory notes or otherwise.

G. "Board" shall mean the Board of Insurance Commissioners of the State of Texas.

Sec. 2. Fee For Privilege of Writing; Schedule of Rates; Statistics and Information.—A. The State of Texas shall assess and collect from each credit insurer writing credit insurance in Texas an annual fee for such privilege not exceeding Three Hundred (\$300.00) Dollars, which shall be independent of and in addition to all other fees and taxes now imposed, or which may hereafter be imposed by law against any credit insurer. Such assessment shall be made by order of the Board of Insurance Commissioners. Said fees, when collected, shall be paid to the State Treasurer, to be deposited in the General Fund of the State.

B. It shall be the duty of the Board to make and file a schedule of reasonable and adequate maximum rates which may be charged by credit insurers on credit insurance policies. Such schedule of rates shall be made and filed only after hearing, notice of which shall be sent by the Board by first-class mail to each insurer writing credit insurance within this State, not less than ten (10) days before the hearing. To insure the adequacy and reasonableness of such maximum rates, the Board may take into consideration experience gathered from territories within this State sufficiently broad to include the varying conditions of the risks involved, and over a period sufficiently long to insure that the maximum rates determined therefrom shall be just and reasonable as they may apply to the insuring public, and adequate and non-confiscatory as they may apply to credit insurers. The Board is hereby authorized and empowered to require sworn statements from any credit insurer transacting the business of credit insurance within this State, showing its experience in premiums collected and claims paid over a reasonable period of time and such other information as the Board shall find to be necessary or helpful in making the maximum rate schedules. After said maximum schedules have been so made and filed, the Board shall cause to be mailed a copy of such maximum rate schedules to each credit insurer transacting business in this State. Each credit insurer shall file with the Board duplicate copies of the rate schedules adopted by it, which rate schedules shall be so filed within thirty (30) days from the date the maximum rate schedule was placed in the mails by the Board. If the Board shall approve the schedule or rates so filed by the insurers, the Board shall endorse its approval and the date thereof on both copies, one of which shall be retained by the Board and the other copy returned to the insurer to be kept as a part of its permanent files. With the consent of the Board an insurer may change the rates by adopting and filing with the Board a new rate schedule in the same manner as hereinabove provided, but in each instance each rate shall be within the maximum theretofore promulgated by the Board.

C. It shall be the continuing duty of the Board to gather such data, statistics and information as it can from time to time with respect to the experience of credit insurers within and without the State of Texas as it may find beneficial in fixing and maintaining reasonable and adequate credit insurance rates from time to time.

Sec. 3. Application of Article.—This article shall apply to and embrace all insurers, insurance agents, lenders, and lender agents, who may write or solicit credit insurance in this State.

Sec. 4. Borrower to Have Choice of Insurer and Agent.—No lender or lender agent shall hereafter require as a condition for the making of a loan that the borrower purchase either credit life or credit health and accident insurance from such lender, lender agent or any insurer represented by them. It shall be permissible for such lender or lender agent to require of a borrower such credit life or credit health and accident insurance or both as a condition for making the loan, if, and only if, the borrower is given the option to purchase such insurance from any insurer

or insurance agent of his own choice. It is the intent of this section to prohibit coercion of insurance and to preserve to each citizen the right to choose his own insurer and insurance agent.

Sec. 5. More Than One Policy on One Loan Prohibited.—No insurer, insurance agent, lender or lender agent shall knowingly solicit, issue or deliver or knowingly permit to remain in effect or force, more than one policy of credit life insurance or more than one policy of credit health and accident insurance, either or both in connection with any loan, irrespective of the number of persons obligated on the loan.

Sec. 6. Commissions Not Deemed Interest; Contingent Commissions.—Commissions received by lenders, lender agents and insurance agents from insurers for the writing of credit insurance complying with the terms of this article, the maximum rates promulgated by the Board, and rules and regulations of the Board of Insurance Commissioners, shall be considered for all purposes as compensation for services rendered to such insurer and shall not be taken to be an interest charge on the money borrowed; provided, however, should such commissions be in excess of any maximum fixed hereunder, then such commissions shall be deemed to be an interest charge on the money borrowed. No agreements by insurers with any of its agents shall permit contingent commissions based on loss experience,

Sec. 7. Application and Statement; Term and Provisions of Policies.—No policy of credit insurance shall hereafter be solicited, written or delivered in this State, except on substantial compliance with the following requirements:

A. The insurer shall receive from the borrower a written application for such insurance, signed by him, in such form as may be approved by the Board. The form of each such application shall be filed with and approved by the Board at such time as the Board shall direct.

B. Credit life insurance policies shall insure against the contingency of death from any cause whatsoever and shall be incontestable from date of issue; except that with approval of the Board, the policy may provide for reduced benefits in the event of suicide by the insured. The terms of such life insurance policies shall not extend more than one (1) month beyond the term of the loan or one (1) year, whichever is greater.

C. Credit health and accident policies shall insure against the contingency of disability from sickness or accident of every kind and character whatsoever, originating and occurring within the term of the policy; except that with approval of the Board, the policy may provide for reduced benefits in the event of pregnancy or self-inflicted injury. The terms of such health and accident policies shall not extend more than one (1) month beyond the term of the loan. The policy of health and accident insurance may provide an amount of insurance in such proportion to the unpaid balance of the loan as shall be approved by the Board.

D. The policies of health and accident and of life insurance shall be non-cancellable by the insurer during the term. Life insurance policies shall be non-cancellable by the insured and the premium shall be considered fully earned when paid. Health and accident insurance policies may be cancelled by the insured upon payment of the loan, and the unearned portion of the premium, calculated on such basis as the Board shall approve, shall be refunded to the insured.

E. The forms of credit insurance policies shall be filed with and approved by the Board before such policies may be issued or delivered. The premium rates to be charged for credit insurance shall be filed and approved by the Board.

Sec. 8. Use of Existing Rates.—Rates which have heretofore been adopted in full compliance with any orders, rules or regulations of the Board of Insurance Commissioners, and which are in use by each credit insurer prior to April 18, 1949, may be continued to be used by such insurers until same may be changed by the Board as provided hereunder.

Sec. 9. Rules and Regulations.—The Board is hereby authorized to promulgate rules and regulations to carry out the spirit and purposes of this article, including but without limiting the generality hereof, the reserve requirement and records to be maintained on such business, the method of insurance and delivery of the policies and the methods for the settlement of claims.

Sec. 10. Excessive Rates Deemed Interest; Report and Legal Proceedings.—Any rate, premium, or assessment charged and collected by an insurer, insurance agent, or lender agent in excess of the rate, premium, or assessment set out in said insurer's rate schedule on file with the Board, and in force at the time, is declared to be an exaction of interest on the money borrowed. It shall be the duty of the Board to report forthwith to the Attorney General of Texas any facts coming to its attention indicating that such excess rate, premium, or assessment has been charged and collected, and he in turn shall deliver such evidence to the proper District or County Attorney for proper legal proceedings under the usury laws, or himself bring such proceedings.

Sec. 11. Cancellation of Permit or License.—The Board, upon hearing, after not less than ten (10) days notice, may cancel the permit or license of any insurer, insurance agent, or lender agent who violates any of the provisions of this article.

Sec. 12. Hearings and Appeals.—Any person having an interest in the subject matter of any order or finding of the Board shall have the right to a hearing before such Board, as the case may be. Appeal from any such order or finding may be made within thirty (30) days from its date to one of the District Courts in Travis County, where the matter shall be heard and tried de novo.

Sec. 13. Rates Other Than Schedule Rates.—It shall be unlawful for any insurer writing credit insurance, insurance agent, lender agent, lender or their officers, agents, or employees, to charge, receive, or collect any rate, premium, or assessment on any policy of credit insurance other than the rate, premium, or assessment set out in said insurer's rate schedule on file with and approved by the Board and in force at that time. Any officer, agent, or employee of any credit insurer, insurance agent, lender agent, or lender, who charges, receives, or collects any rate, premium, or assessment in violation of this article, or any officer of such insurer, insurance agent, lender agent, or lender who knowingly permits it to be done, shall be punished by fine not less than Five Hundred (\$500.00) Dollars, nor more than Two Thousand (\$2,000.00) Dollars, or by imprisonment in the County Jail not to exceed two (2) years, or by both such fine and imprisonment.

Sec. 14. Group Life Insurance and Other Kind of Insurance Not Affected.—Nothing in this article shall ever be construed to include or affect in any manner group life insurance issued under the provisions of Article 3.50, or any other kind of insurance written by insurance carriers or their insurance agents other than credit life insurance and credit health and accident insurance as defined herein.

The provisions of Senate Bill No. 221, Acts 1951, 52nd Leg., p. 336, ch. 207, amending Acts 1949, 51st Leg., p. 132, ch. 81, § 7 (Vernon's Texas Statutes, art. 4764c, § 7), were included in the enrolled bill of Senate Bill No. 236, Article 3.53, § 7, constituting the Insurance Code, by the Enrolling Clerk of the Senate pursuant to House Concurrent Resolution No. 179.

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Art. 3.54. Limitation of Business

It shall be unlawful for any insurance company incorporated or licensed under the provisions of this chapter to take any kind of risks or issue any policies of insurance, except those of life, accident or health; nor shall the business of life insurance in this State be in anywise conducted or transacted by any company which, in this or any other State or country, is engaged or concerned in writing any kinds of insurance other than life, health and accident insurance.

Art. 3.55. Board May Revoke Certificate

If any such insurance company, while holding a certificate of authority to transact business in this State, shall fail or refuse to comply with any of the provisions or requirements of this chapter, the Board of Insurance Commissioners upon ascertaining such fact, shall notify such company by actual notice in writing delivered to an executive officer of such company, of its intention to revoke its certificate of authority to transact business in this State at the expiration of thirty (30) days after the mailing of such registered letter, or the date upon which such actual notice is served. If such provisions or requirements are not fully complied with upon the expiration of said thirty (30) days, it shall be the duty of said Board to revoke the certificate of authority of such company. In case of such revocation, such company shall not be entitled to receive another certificate of authority for a period of one (1) year, and until it shall have fully and in good faith complied with all such provisions and requirements of this chapter. Any company feeling itself aggrieved by the action of the Board in revoking its certificate of authority to do business in this State may bring suit against said Board in Travis County to annul and vacate the order revoking such certificate.

Art. 3.56. Failure to Report or Invest

If any such company shall intentionally fail or refuse to make the investments required by this chapter, or make any report required by this chapter, or to make any special report requested by the Board of Insurance Commissioners under authority of this chapter, or generally to comply with any provision or requirements of this chapter, while holding a certificate of authority to transact business in this State, or after it shall cease to write new business or cease to hold such certificate, such failure or refusal shall subject such company, in addition to the penalty provided in the preceding article, in cases to which said article may be applicable, to the payment of a penalty of Twenty-five (\$25.00) Dollars per day for each day that such company shall remain in default after the Board shall notify such company of such default, in the manner provided in the preceding article, to be recovered in a suit that may be brought by the Attorney General in behalf of the State in the District Court of Travis County. In any suit brought to recover such penalty, there shall be a prima facie presumption subject to rebuttal, that any default that may have occurred was intentional; that the notice required by this chapter was given, and the burden of proof shall be on the defendant company to prove that the investments required by this chapter were made as herein required whenever the question of whether or not such investments were thus made is in issue.

Art. 3.57. Must Have Certificate of Authority

No foreign or domestic insurance company shall transact any insurance business in this State, other than the lending of money, unless it shall first procure from the Board of Insurance Commissioners a certificate of authority, stating that the laws of this State have been fully complied with by it, and authorizing it to do business in this State. Such certificate of authority shall expire on the day fixed by the Board under Articles 3.06 and 3.08 of this code and shall be renewed annually so long as the company shall continue to comply with the laws of the State, such renewals to be granted upon the same terms and considerations as the original certificate.

Art. 3.58. Failure to Renew Certificate

Any company which shall fail to renew its certificate of authority or continue to write new business in this State, shall, nevertheless, have the right to maintain agents in Texas for the purpose of collecting renewal premiums on outstanding business written by it under certificate of authority, and also for the purpose of making investments as provided by this chapter.

Art. 3.59. Companies Renewing Business

Any life insurance company which has heretofore been, may now be, or may hereafter be, engaged in writing policies of insurance upon the lives of citizens of this State, which has heretofore ceased, or may hereafter cease writing such policies, and which does not now or may not hereafter have a certificate of authority to transact the business of life insurance in this State, but which has continued or may continue to collect renewal or other premiums upon such policies, shall, before it may again obtain a certificate of authority to transact the business of life insurance in this State, report under oath to the Board of Insurance Commissioners the gross amount of premiums so collected from citizens of this State upon policies of insurance during each calendar year since the end of the period covered by the last preceding report by such company of gross premium receipts upon which it paid an occupation tax, and shall pay to the State a sum equal to the percentage of its gross premium receipts for each such year that was required by law to be paid as occupation taxes by companies doing business in this State, during such year or years; and, upon the payment of such sum and securing a certificate of authority to do business in this State, the penalties provided for the failure to pay such taxes and make such report in the past shall be remitted.

Art. 3.60. Impairment of Capital Stock

Any such insurance company transacting business within this State, whose capital stock shall become impaired to the extent of thirty-three and one-third ($33\frac{1}{3}\%$) per cent thereof, computing its liabilities in the manner provided by the laws of this State, shall make good such impairment within sixty (60) days, by reduction of its capital stock (provided such capital stock shall in no case be less than the minimum amount required of such company by law,) and failing to make good such impairment within said time shall forfeit its right to write new business in this State until said impairment shall have been made good. The Board of Insurance Commissioners may apply to any court of competent jurisdiction for the appointment of a receiver to wind up the affairs of such company when its capital stock shall become impaired to the extent of fifty (50%) per cent thereof, computing its reserve liability in the manner provided by the laws of this State for the computation of such re-

serve liability. No company shall write new business in Texas when its net surplus to policyholders is less than One Hundred Thousand (\$100,000.00) Dollars, unless it is expressly authorized by law to do so.

Art. 3.61. Certificate Null and Void; When

If any life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company fails to pay off and satisfy any execution that may lawfully issue on any final judgment against said company within thirty (30) days after the officer holding such execution has demanded payment thereof from any officer or attorney of record of such company, in this State, or out of it, such officer shall immediately certify such demand and failure to the Board of Insurance Commissioners; and thereupon the Board shall forthwith declare null and void the certificate of authority of such company; and such company shall be prohibited from transacting any business in this State until such execution shall be fully satisfied and discharged, and until such Board shall renew its certificate of authority to such company.

Art. 3.62. Delay in Payment of Losses; Penalty For

In all cases where a loss occurs and the life insurance company, or accident insurance company, or life and accident, health and accident, or life, health and accident insurance company liable therefor shall fail to pay the same within thirty days after demand therefor, such company shall be liable to pay the holder of such policy, in addition to the amount of the loss, twelve (12%) per cent damages on the amount of such loss together with reasonable attorney fees for the prosecution and collection of such loss. Such attorney fee shall be taxed as a part of the costs in the case. The Court in fixing such fees shall take into consideration all benefits to the insured incident to the prosecution of the suit, accrued and to accrue on account of such policy.

Art. 3.63. To Sue and Be Sued

Actions may be maintained by a company organized under the laws of this State against any of its policyholders, stockholders, or other person for any cause relating to the business of such company. Suits may also be prosecuted and maintained by any policyholder or his heirs or his legal representatives against the company for losses which accrue on any policy. No action shall be brought or maintained by any person other than the Board of Insurance Commissioners for the enjoining, restraining or interfering with the prosecution of the business of the company.

Art. 3.64. Service of Process on Domestic Companies

Process in any civil suit against any "domestic" company, may be served only on the president, or any active vice president, or secretary, or general counsel residing at the city of the home office of the company, or by leaving a copy of same at the home office of such company during business hours.

Art. 3.65. Shall File Power of Attorney

Each "foreign company" engaged in doing or desiring to do business in this State shall file with the Board of Insurance Commissioners an irrevocable power of attorney, duly executed, constituting and appointing the Chairman of the Board and his successors in office, or any officer or board which may hereafter be clothed with the powers and duties now devolving upon said Chairman of the Board, its duly authorized agent and

attorney in fact for the purpose of accepting service for it or being served with citation in any suit brought against it in any court of this State, by any person, or by or to or for the use of the State of Texas, and consenting that the service of any civil process upon him as its attorney for such purpose in any suit or proceeding shall be taken and held to be valid, waiving all claim and right to object to such service or to any error by reason of such service; and such appointment, agency and power of attorney shall, by its terms and recitals, provide that it shall continue and remain in force and effect so long as such company continues to do business in this State or to collect premiums of insurance from citizens of this State, and so long as it shall have outstanding policies in this State, and until all claims of every character held by the citizens of this State, or by the State of Texas, against such company, shall have been settled. Said power of attorney shall be signed by the president or a vice president and the secretary of such company whose signature shall be attested by the seal of the company, and said officer signing the same shall acknowledge its execution before an officer authorized by the laws of this State to take acknowledgments. The said power of attorney shall be embodied in, and approved by, a resolution of the board of directors of such company, and a copy of such resolution, duly certified to by the proper officers of said company, shall be filed with the said power of attorney in the office of the Board, and shall be recorded by it in a book kept for that purpose, there to remain a permanent record of said department.

Art. 3.66. Chairman's Duty in Accepting Service

Whenever the Chairman of the Board of Insurance Commissioners shall accept service or be served with citation in any suit pending against any "foreign company" in this State, he shall immediately enclose the copy of the citation served upon him, or a substantial copy thereof, in a letter properly addressed to the general manager or general agent of the company against whom such service is had, if it shall have a general manager or general agent within this State, and if not, then to the home office of the company, and shall forward the same by registered mail, postage prepaid. No judgment by default shall be taken in any such cause until after the expiration of at least ten (10) days after the general agent or general manager of such company, or the company at its home office, as the case may be, shall have received such copy of such citation; and the presumption shall obtain, until rebutted, that such notice was received by such agent or company in due course of mail after being deposited in the mail at Austin, Texas.

Art. 3.67. Director Not to Do Certain Things

No director or officer of any insurance company transacting business in or organized under the laws of this State, shall receive any money or valuable thing for negotiating, procuring, recommending or aiding in any purchase or sale by such company of any property, or any loan from such company, nor be pecuniarily interested, either as principal, co-principal, agent or beneficiary in any such purchase, sale or loan. Nothing in this article shall prevent a life insurance corporation from making a loan upon a policy held therein, by the borrower, not in excess of the reserve value thereof.

Art. 3.68. No Commissions Paid Officers

No life insurance company transacting business in this State shall pay, or contract to pay, directly or indirectly, to its president, vice president, secretary, treasurer, actuary, medical director or other physician

charged with the duty of examining risks or applications for insurance or to any officer of the company other than an agent or solicitor, any commission or other compensation contingent upon the writing or procuring of any policy of insurance in such company, or procuring an application therefor by any person whomsoever, or contingent upon the payment of any renewal premium, or upon the assumption of any life insurance risk by such company. Should any company violate any provision of this article, it shall be the duty of the Board of Insurance Commissioners to revoke its certificate of authority to transact business in this State.

CHAPTER FOUR

TAXES AND FEES

Art.

- 4.01. Tax Other Than Premium Tax.
- 4.02. Insurance Companies Other than Life, Other than Fraternal Benefit Associations, and Other than Non-Profit Group Hospital Service Plans; Tax on Gross Premiums.
- 4.03. Tax on Insurance Organizations Not Organized Under Laws of Texas.
- 4.04. Tax on Domestic Insurance Organizations.
- 4.05. Taxes to be Paid before Certificate is Issued.
- 4.06. Taxes Imposed Exclusive.
- 4.07. Fees of Board of Insurance Commissioners.

Art. 4.01. Tax Other Than Premium Tax

Insurance companies incorporated under the laws of this State shall hereafter be required to render for state, county and municipal taxation all of their real estate as other real estate is rendered. All personal property of such insurance companies, except fire insurance companies and casualty insurance companies, shall be valued as other property is valued for assessment in this State in the following manner: From the total valuation of its assets shall be deducted the reserve being the amount of the debts of insurance companies by reason of their outstanding policies in gross, and from the remainder shall be deducted the assessed value of all real estate owned by the company and the remainder shall be the assessed taxable value of its personal property.

All personal property of fire insurance companies and casualty insurance companies incorporated under the laws of this State shall be valued as other personal property is valued for assessment in this State, and in the following manner: From the total valuation of their assets shall be deducted the reserves, which reserves shall be computed in such manner as may be prescribed by the rules and regulations of the Board of Insurance Commissioners, for unearned premiums and for all bona fide outstanding losses, and from the remainder shall be deducted the assessed value of all real estate owned by such companies, and the remainder shall be the taxable personal property of such companies, to be assessed as other property. All real estate, furniture, fixtures and automobiles, owned by any such company shall be rendered for taxation in the city and in the county where such property is located. All other personal property owned by such company shall be rendered for taxation in the city and county where the principal business office of any such company is fixed by its charter.

Domestic insurance companies shall not be required to pay any occupation or gross receipt tax except as otherwise provided by this code.

Art. 4.02. Insurance Companies Other than Life, Other than Fraternal Benefit Associations, and Other than Non-Profit Group Hospital Service Plans; Tax on Gross Premiums

Sec. 1. Each such insurance organization shall be subject to the provisions of Articles 7074 to 7078, inclusive, of the Revised Civil Statutes of 1925, as amended.

Art. 4.03. Tax on Insurance Organizations Not Organized Under Laws of Texas

Sec. 1. This article shall not in any manner affect the obligation of any such insurance organization to make investments in Texas securities in proportion to the amount of Texas reserves as required by Article 3.33 of Subchapter C, Chapter 3 of this code.

Art. 4.04. Tax on Domestic Insurance Organizations

Sec. 1. This article shall not in any manner affect the obligation of any such insurance organization to make investments in Texas securities in proportion to the amount of Texas reserves as required by Article 3.33 of Subchapter C, Chapter 3 of this code.

Art. 4.05. Taxes to be Paid before Certificate is Issued

Upon the receipt of sworn statements showing the gross premium receipts of any insurance organization, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by such insurance organization for the preceding year, which taxes shall be paid to the State Treasurer for the use of the State, by such company. Upon his receipt of such certificate and the payment of such tax, the Treasurer shall execute a receipt therefor, which receipt shall be evidence of the payment of such taxes. No such life insurance company shall receive a certificate of authority to do business in this State until such taxes are paid. If, upon the examination of any company, or in any other manner, the Board shall be informed that the gross premium receipts of any year exceed in amount those shown by the report thereof, theretofore made as above provided, it shall be the duty of such Board to file with the State Treasurer a supplemental certificate showing the additional amount of taxes due by such company, which shall be paid by such company upon notice thereof. The State Treasurer if, within fifteen (15) days after the receipt by him of any certificate or supplemental certificate provided for by this article, the taxes due as shown thereby have not been paid, shall report the facts to the Attorney General, who shall immediately institute suit in the proper court in Travis County to recover such taxes.

Art. 4.06. Taxes Imposed Exclusive

No occupation tax other than herein imposed shall be levied by the State or any county, city or town, upon any insurance organization herein subject to the occupation tax in proportion to its gross premium receipts, or its agents. The occupation tax imposed by this chapter shall be the sole occupation tax which any company doing business in this State under the provisions of this chapter shall be required to pay.

Art. 4.07. Fees of Board of Insurance Commissioners

The Board of Insurance Commissioners shall charge and receive for the use of the State the following fees:

For filing each declaration or certified copy of charter of an insurance company	\$25.00
For filing the annual statement of an insurance company, or certificate in lieu thereof	\$20.00
For certificate of authority and certified copy thereof	\$ 1.00
For every copy of any paper filed in the Department of Insurance, for each 100 words, not to exceed	\$.20
For affixing the official seal and certifying to the same	\$ 1.00
For valuing policies of life insurance, and for each one million of insurance or fraction thereof	\$10.00

All fees collected by virtue of this article shall be deposited in the State Treasury and appropriated to the use and benefit of the Board of Insurance Commissioners to be used in the payment of salaries and other expenses arising out of and in connection with the examination of insurance companies and/or the licensing of insurance companies and investigations of violations of the insurance laws of this State in such manner as provided in the general appropriation bill for the Life Insurance Division and Examining Division and Agents' License Division of the Board of Insurance Commissioners.

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SUBCHAPTER A. MOTOR VEHICLE OR AUTOMOBILE INSURANCE**Art. 5.01. Fixing Rate of Automobile Insurance**

Every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's or other insurer, hereinafter called insurer, writing any form of motor vehicle insurance in this State,

shall annually file with the Board of Insurance Commissioners, hereinafter called Board, on forms prescribed by the Board, a report showing its premiums and losses on each classification of motor vehicle risks written in this State.

The Board shall have the sole and exclusive power and authority, and it shall be its duty to determine, fix, prescribe, and promulgate just, reasonable, and adequate rates of premiums to be charged and collected by all insurers writing any form of insurance on motor vehicles in this State, including fleet or other rating plan, designed to discourage losses from fire and theft and similar hazards and to take account of the peculiar hazards of individual risks, and an experience rating plan designed to encourage the prevention of accidents, and to take account of the peculiar hazards of individual risks, provided that only one such plan shall be fixed or promulgated for each form of insurance hereunder. The Board shall have the authority also to alter or amend any and all of such rates of premiums so fixed and determined and adopted by it, and to raise or lower the same or any part thereof.

Said Board shall have authority to employ clerical help, inspectors, experts, and other assistants, and to incur such other expenses as may be necessary in carrying out the provisions of this subchapter; provided, however, that the number of employees and salary of each shall be fixed in the General Appropriation Bill passed by the Legislature.

The Board shall ascertain as soon as practicable the annual insurance losses incurred under all policies on motor vehicles in this State, make and maintain a record thereof, and collect such data as will enable said Board to classify the various motor vehicles of the State according to the risk and usage made thereof, and to classify and assign the losses according to the various classes of risks to which they are applicable; the Board shall also ascertain the amount of premiums on all such policies for each class of risks, and maintain a permanent record thereof in such manner as will aid in determining just, reasonable, and adequate rates of premiums.

Motor vehicle or automobile insurance as referred to in this subchapter shall be taken and construed to mean every form of insurance on any automobile or other vehicle hereinafter enumerated and its operating equipment or necessitated by reason of the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use in this State of any automobile, motorcycle, motor-bicycle, truck, truck-tractor, tractor, traction engine, or any other self-propelled vehicle, and including also every vehicle, trailer or semi-trailer pulled or towed by a motor vehicle, but excluding every motor vehicle running only upon fixed rails or tracks. Workmen's Compensation Insurance is excluded from the foregoing definition and from the terms of this subchapter.

Art. 5.02. Authority to Assign Certain Types or Classes to Appropriate Rating Laws

There shall be excluded from regulation under the provisions of this subchapter any insurance against liability for damages arising out of the ownership, operation, maintenance or use of or against loss of or damage to motor vehicles described in the foregoing section which may, in the judgment of the Board, be a type or class of insurance which is also the subject of or may be more properly regulated under the terms or provisions of other insurance rating laws heretofore or hereafter enacted covering such insurance. If such situation shall be found to exist, then the Board shall make an order declaring which of the said rating laws shall be applicable to such type or class of insurance, and to any motor vehicle equipment mentioned in Article 5.01 of this subchapter.

Art. 5.03. Approved Rates as Controlling

On and after the filing and effective date of such classification of such risks and rates, no such insurer shall issue or renew any such insurance at premium rates which are greater or less than, or different from, those approved by the Board as just, reasonable, and adequate for the risks to which they respectively apply, and not confiscatory as to any class of insurance carriers authorized by law to write such insurance.

Art. 5.04. Experience as Factor

To insure the adequacy and reasonableness of rates the Board may take into consideration experience gathered from a territory sufficiently broad to include the varying conditions of the risks involved and the hazards and liabilities assumed, and over a period sufficiently long to insure that the rates determined therefrom shall be just, reasonable, and adequate, and to that end the Board may consult any rate making organization or association that may now or hereafter exist.

Art. 5.05. Reports on Experience

The Board is hereby authorized and empowered to require sworn statements from any insurer affected by this subchapter, showing its experience on any classification or classifications of risks and such other information which may be necessary or helpful in determining proper classifications and rates, or other duties or authority imposed by law. The Board shall prescribe the necessary forms for such statements and reports, having due regard to the rules, methods and forms in use in other states for similar purposes in order that uniformity of statistics may not be disturbed.

Art. 5.06. Policy Forms and Endorsements

In addition to the duty of approving classifications and rates, the Board shall prescribe policy forms for each kind of insurance uniform in all respects except as necessitated by the different plans on which the various kinds of insurers operate, and no insurer shall thereafter use any other form in writing automobile insurance in this State; provided, however, that any insurer may use any form of endorsement appropriate to its plan of operation, provided such endorsement shall be first submitted to and approved by the Board; and any contract or agreement not written into the application and policy shall be void and of no effect and in violation of the provisions of this subchapter, and shall be sufficient cause for revocation of license of such insurer to write automobile insurance within this State.

Art. 5.07. Participating Policies

Nothing in this subchapter shall be construed to prohibit the operation hereunder of any stock company, mutual company, reciprocal or interinsurance exchange or Lloyd's association or to prohibit any stock company, mutual company, reciprocal or interinsurance exchange or Lloyd's association issuing participating policies; provided no distribution of profit or dividends to insured shall take effect or be paid until the same shall have been approved by the Board; and provided further that no such distribution shall be approved until adequate reserves shall have been provided, such reserves to be computed on the same basis for all classes of insurers operating under this subchapter.

Art. 5.08. Special Favors and Profit Sharing

It shall be unlawful for any insurer, as defined in this subchapter, or its officers, directors, general agent, state agents, special agents, local

agents or other representatives, to grant to or contract with insured for any special favor or advantage in dividends or other profits, or any commissions or dividends of commissions or profits to accrue thereon, or any compensation or any valuable consideration not specified in the policy contract, or any inducement not specified in the policy contract, for the purpose of writing the insurance of any insured. Nothing in this article, however, shall be construed to prohibit an insurer from sharing its profits after the same have been earned with its policyholders under and in accordance with an agreement as to such profit sharing contained in its policy contract. Any profit sharing under any policy with insured shall be uniform as between such insured, and shall consist only and solely of an equitable distribution under and in accordance with the terms of the policy of earnings between such insured, and no such insurer shall discriminate in any distribution of profits between insured of a class, and no classes for such distribution shall be made or established except on the approval of the Board. No part of any profit shall be distributed to any insured under any such policy until the expiration of the policy contract. Any violation of the terms of this section shall constitute unjust discrimination and shall constitute rebating, and shall be sufficient grounds for the revocation of the permit of the insurer or of the license of the agent being guilty of such unjust discrimination and rebating.

Art. 5.09. Discriminations or Distinctions

No insurer coming within the terms of this subchapter shall, in its business in this State, make or permit any distinction or discrimination in favor of the insured having a like hazard, in the matter of the charge of premiums for insurance, or in dividends or other benefits payable under any policy, nor shall any such insurer or agent make any contract of insurance, or agreement as to such insurance, other than expressed in the policy, nor shall any such insurer or its agents or representatives pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insured, any rebate payable upon the policy or any special favor or advantage in dividends or other benefits to accrue, or anything of value whatsoever, not specified in the policy; provided that nothing in this subchapter shall be construed to prohibit the modification of rates by an experience rating plan designed to encourage the prevention of accidents and to take account of the peculiar hazards of individual risks, provided such plan shall have been approved by the Board; and provided further that only one such plan shall be approved for each form of insurance hereunder.

Art. 5.10. Rules and Regulations

The Board is hereby empowered to make and enforce all such reasonable rules and regulations not inconsistent with the provisions of this subchapter as are necessary to carry out its provisions, including full power and control over any administrative agencies and/or stamping office which may be organized or established by insurer with the Board's approval to carry into effect the provisions of this subchapter.

Art. 5.11. Hearing on Grievances

Any policyholder or insurer shall have the right to a hearing before the Board on any grievance occasioned by the Approval or disapproval by the Board of any classification, rate or endorsement or policy form, or any rule or regulation established under the terms hereof, such hearing to be held in conformity with rules prescribed by the Board. Upon receipt of request that such hearing is desired, the Board shall forthwith set a date for the hearing at the same time notifying all inter-

ested parties in writing of the place and date thereof, which date, unless otherwise agreed to by the parties at interest, shall not be less than ten (10) nor more than thirty (30) days after the date of said notice. Any party aggrieved shall have the right to apply to any court of competent jurisdiction to obtain redress.

No hearing shall suspend the operation of any classification, rate or policy form unless the Board shall so order.

Art. 5.12. Tax on Gross Motor Vehicle Insurance Premiums

The State of Texas shall assess and collect an additional one-fifth ($1/5$) of one (1%) per cent of the gross motor vehicle insurance premiums, of all insurers writing motor vehicle insurance in this State, according to the reports made to the Board of Insurance Commissioners as required by law. The tax herein required shall supersede the tax heretofore collected upon fire premiums of automobile insurance for the support of the Board of Insurance Commissioners. Said taxes when collected shall be deposited with the State Treasurer to the credit of a special fund to be designated as the Motor Vehicle Insurance Division Fund, to be used for the sole purpose of administering this subchapter; and to be expended only on warrants issued by the Comptroller upon vouchers drawn by the Board of Insurance Commissioners, such vouchers to be accompanied by itemized sworn statements of the expenditures, and to be in addition to all taxes now imposed, or which may hereafter be imposed, not in conflict with this section of this subchapter. Should there be an unexpended balance at the end of any year in said fund, the Board of Insurance Commissioners shall reduce the assessment for the succeeding year so that the amount produced and paid into the State Treasury together with said unexpended balance in the Treasury will not exceed the amount necessary for the current year to pay all expenses of maintaining the Motor Vehicle Division of the Board of Insurance Commissioners.

SUBCHAPTER B. CASUALTY INSURANCE AND FIDELITY, GUARANTY AND SURETY BONDS

Art. 5.13. Scope of Subchapter

This subchapter applies to every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyds or other organization or insurer writing any of the characters of insurance business herein set forth, hereinafter called "Insurer"; provided that nothing in this entire subchapter shall ever be construed to apply to any county or farm mutual insurance company or association, as regulated under Chapters 16 and 17 of this code.

This subchapter applies to the writing of casualty insurance and the writing of fidelity, surety, and guaranty bonds, on risks or operations in this State except as herein stated.

This subchapter does not apply to the writing of motor vehicle, life, health, accident, reinsurance, aircraft, fraternal benefit, fire, lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lockout, water or other fluid or substance, resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other con-

duits or containers, or resulting from casual water entering through leaks or opening in buildings or by seepage through building walls, including insurance against accidental injury of such sprinklers, pumps, fire apparatus, conduits or container, workmen's compensation, inland marine, ocean marine, marine, or title insurance; nor does this subchapter apply to the writing of explosion insurance, except insurance against loss from injury to person or property which results accidentally from steam boilers, heaters or pressure vessels, electrical devices, engines and all machinery and appliances used in connection therewith or operated thereby.

This subchapter shall not be construed as limiting in any manner the types or classes of insurance which may be written by the several types of insurers under appropriate statutes or their charters or permits.

The regulatory power herein conferred is vested in the Board of Insurance Commissioner of the State of Texas. Within the Board, the Casualty Insurance Commissioners shall have primary supervision of regulation herein provided, subject however, to the final authority of the entire Board.

Art. 5.14. Making of Rates

All rates shall be made in accordance with the following provisions:

1. Due consideration shall be given to the past and prospective loss experience within and outside the State, to catastrophe hazards, if any, to expenses of operation, to a reasonable margin for profit and contingencies, and to all other relevant factors, within and outside the State.

2. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in such risks on the basis of any or all of the factors mentioned in the preceding paragraph.

3. Rates shall be reasonable, adequate, not unfairly discriminatory, and non-confiscatory as to any class of insurer.

Art. 5.15. Filing of Rates and Rating Information; Approval

(a) Every insurer shall file with the Board every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the policies and endorsement forms proposed to be used, and the information upon which the insurer supports the filing.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the Board to accept such filings on its behalf.

(c) Any filing made pursuant to this article shall be approved by the Board unless it finds that such filing does not meet the requirements of this subchapter. As soon as reasonably possible after the filing has been made the Board shall in writing approve or disapprove the same; provided, that any filing shall be deemed approved unless disapproved within thirty (30) days; provided, that the Board may by official order postpone action for such further time not exceeding thirty (30) days as it deems necessary for proper consideration.

(d) Any filing for which there is no approved rate shall be deemed approved from the date of filing to the date of such formal approval or disapproval.

(e) If at any time the Board finds that a filing so approved no longer meets the requirements of this subchapter, it may, after a hearing held on not less than twenty days' notice specifying the matters to be con-

sidered at such hearing, to every insurer and rating organization which made such filing, issue an order withdrawing its approval thereof. Said order shall specify in what respects the Board finds that such filing no longer meets the requirements of this subchapter and shall be effective not less than thirty (30) days after its issuance. Copies of such order shall be sent to every such insurer and rating organization.

(f) Any person or organization aggrieved by the action of the Board with respect to any filing may, within thirty (30) days after such action, make written request to the Board for a hearing thereon. The Board shall hear such aggrieved party within thirty (30) days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing to the insurer or rating organization which made the filing and to any other aggrieved party. Within thirty (30) days after such hearings the Board shall affirm, reverse or modify its previous action. Pending such hearing and decision thereon the Board may suspend or postpone the effective date of its previous action.

Art. 5.16. Rating Organizations

(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside the State, may make application for license as a rating organization for such kinds of insurance or subdivisions thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws and rules governing the conduct of its business; (2) a list of its members and subscribers; (3) the name and address of a resident of the State upon whom notices or orders of the Board affecting such rating organizations may be served and (4) a statement of its qualification as a rating organization. If the Board finds that the applicant is qualified, it shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the Board within sixty (60) days of the date of its filing with it. Licenses issued pursuant to this Article shall remain in effect until suspended or revoked by the Board. The fee for said license shall be Twenty-five (\$25.00) Dollars.

A rating organization shall not be granted a license as to any class of insurance unless and until two or more insurers have designated it to act for them as to such class of insurance in the manner prescribed herein.

(b) Each rating organization shall, subject to reasonable rules and regulations, permit any insurer, not a member, to become a subscriber to its rating services, and shall furnish such services without discrimination to its members and subscribers. The refusal of any rating organization to admit an insurer as a subscriber shall, at the request of such insurer, be reviewed by the Board at a hearing held upon at least ten (10) days' written notice to such rating organization and such insurer. Every rating organization shall notify the Board promptly of every change in the list of its members and subscribers.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends to policyholders.

(d) The Board shall, at least once in five (5) years, make or cause to be made an examination of each rating organization licensed in this State. The reasonable costs of such examination shall be paid by the rating organization examined upon presentation to it of a detailed account of such cost. The officers, managers, agents and employees of such rating organization may be examined under oath and shall exhibit all books, rec-

ords, accounts, documents or agreements governing its method of operation. The Board may waive such examination upon proof that such rating organization has, within a reasonably recent period, been examined by the insurance supervisory official of another state, pursuant to the laws of such state, and upon the filing with the Board of a copy of the report of such examination.

Art. 5.17. Appeal by Minority

Any member of or subscriber to a rating organization may appeal to the Board from the decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization; and the Board shall, after a hearing held on not less than ten (10) days' written notice to the appellant and to such rating organization, issue an order approving the decision of such rating organization or directing it to give further consideration to such proposal.

Art. 5.18. Information to be Furnished Insureds; Hearings and Appeals of Insureds

Every insurer which files its own rates and every rating organization shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charges as it may make, furnish to any person then or thereafter affected by such rate or any modification thereof properly made, or to the authorized representative of such person, all information pertinent thereto.

Every insurer which files its own rates and every rating organization shall provide within this State reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. Any party affected by the action of such rating organization or such insurer on such request may, within ten (10) days after written notice of such action, appeal to the Board.

Art. 5.19. Rate Administration

(a) Recording and Reporting of Loss Experience and Other Data.—The Board shall, after due consideration, promulgate reasonable rules and statistical plans which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss experience and such other data as may be required, in order that the total loss and expense experience of all insurers may be made available at least biennially in such form and detail as may be necessary to aid in determining whether rating plans comply with the standards set forth in Article 5.14 of this subchapter. In promulgating such rules and plans, the Board shall have due regard for the rating plans approved by it, and in order that such rules and plans may be as uniform as is practicable, to the rules and to the form of the plans used in other states. The Board may designate one or more rating organizations or other agencies to gather and compile such experience.

(b) Interchange of Rating Plan Data.—Reasonable rules and plans may be promulgated by the Board after due consideration, requiring the interchange of loss experience necessary for the application of rating plans.

(c) Consultation with Other States.—In order to further uniform administration of rating laws, the Board and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and

may consult and cooperate with them with respect to rate making and the application of rating systems.

(d) Rules and Regulations.—The Board may make reasonable rules and regulations necessary to effect the purposes of this subchapter.

Art. 5.20. Rebates Prohibited

No insurer or employee thereof, and no broker or agent shall knowingly issue any policy of insurance nor charge, demand or receive a premium thereon except in accordance with the applicable filing which has been approved by the Board. No insurer or employee thereof, and no broker or agent shall pay, allow or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in such applicable filing. No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatements, or reduction of premium, or any special favor or advantage or valuable consideration or inducement. Nothing in this article, however, shall be construed to prohibit an insurer from sharing its profits after the same have been earned with its policyholders under and in accordance with an agreement as to such profit sharing contained in its policy contract. Any profit sharing under any policy with insured shall be uniform as between such insured, and shall consist only and solely of the equitable distribution under and in accordance with the terms of the policy of earnings between such insured, and no such insurer shall discriminate in any distribution of profits between insured of a class, and no classes for such distribution shall be made or established except on the approval of the Board. No part of any profit shall be distributed to any insured under any such policy until the expiration of the policy contract, provided no distribution of profits or dividends to insured shall take effect or be paid until the same shall have been approved by the Board; and provided further, that no such distribution shall be approved until adequate reserves shall have been provided, such reserves to be computed on the same basis for all classes of insurers operating under this subchapter. Any violation of the terms of this article shall constitute unjust discrimination and shall constitute rebating, and shall be sufficient grounds for the revocation of the permit of the insurer or of the license of the agent being guilty of such unjust discrimination and rebating; provided further, that nothing in this subchapter shall be construed to prohibit the modification of rates by any rating plan approved by the Board as hereinbefore provided.

As used in this article the word "insurance" includes suretyship, and the word "policy" includes bond.

Art. 5.21. False or Misleading Information

No person or organization shall knowingly give false or misleading information to the Board, to any insurer, or to any rating organization, which will in any manner affect the proper determination of rates or premiums.

Art. 5.22. Penalties

The Board may suspend the license of any rating organization or insurer which fails to comply with an order of the Board within the time

limited by such order, or any extension thereof which the Board may grant. The Board shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until such order has been affirmed. The Board may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by it, unless it modifies or rescinds such suspension or until the order upon which such suspension is based is modified, rescinded or reversed.

No license shall be suspended except upon a written order of the Board, stating its findings, made after a hearing held upon not less than ten (10) days' notice to such person or organization specifying the alleged violation.

Art. 5.23. Judicial Review

Any order or decision of the Board shall be subject to review, which shall be on the basis of the record of the proceedings before the Board and shall not be limited to questions of law, by direct action in the District Court of Travis County, instituted by any party aggrieved by any action taken under this subchapter.

Pending final disposition of any proceedings which attack the correctness of a rate, any insurer affected by such order may continue to charge the rate which obtained prior to such order of decrease or may charge the rate resulting from such order of increase, on condition that the difference in the premiums be deposited in a special account by said insurer, to be held in trust by said insurer, and to be retained by said insurer or paid to the holders of policies issued after the order of the Board, as the court may determine.

In all other cases, the court shall determine whether the filing of the appeal shall operate as a stay. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the Board in whole or in part.

Art. 5.24. Maintenance Tax

The State of Texas shall assess and collect not exceeding an additional two-fifths ($2/5$) of one (1%) per cent of the gross premiums on all classes of insurance covered by this subchapter, of all insurers writing such insurance in this state, according to the reports made to the Board of Insurance Commissioners as required by law. Said taxes when collected shall be deposited with the State Treasurer to the credit of a special fund to be designated as the Casualty Insurance Fund, which fund shall be kept separate and apart from all other funds and moneys in his hands, to be used for the sole purpose of administering this subchapter; and to be expended only on warrants issued by the Comptroller upon vouchers drawn by the Board of Insurance Commissioners, such vouchers to be accompanied by itemized sworn statements of the expenditures, and to be in addition to all taxes now imposed, or which may hereafter be imposed, not in conflict with this article of this subchapter. Should there be an unexpended balance at the end of any year in said fund, the Board shall reduce the assessment for the succeeding year so that the amount produced and paid into the Treasury will not exceed the amount necessary for the current year to pay all expenses of maintaining the division of the Board of Insurance Commissioners administering this subchapter.

SUBCHAPTER C. FIRE INSURANCE AND ALLIED LINES

Art. 5.25. Board Shall Fix Rates

The Board of Insurance Commissioners shall have the sole and exclusive power and authority and it shall be its duty to prescribe, fix, determine and promulgate the rates of premiums to be charged and collected by fire insurance companies transacting business in this State. Said Board shall also have authority to alter or amend any and all such rates of premiums so fixed and determined and adopted by it, and to raise or lower the same, or any part thereof, as herein provided. Said Board shall have authority to employ clerical help, inspectors, experts and other assistants, and to incur such other expenses as may be necessary in carrying out the provisions of this law. Such expenses, including the salaries of the members of the Board, shall not exceed in the aggregate, for any fiscal year, the sum of One Hundred and Thirty Thousand (\$130,000.00) Dollars. Said Board shall ascertain as soon as practicable the annual fire loss in this State; obtain, make and maintain a record thereof and collect such data with respect thereto as will enable said Board to classify the fire losses of this State, the causes thereof, and the amount of premiums collected therefor for each class of risks and the amount paid thereon, in such manner as will aid in determining equitable insurance rates, methods of reducing such fire losses and reducing the insurance rates of the State, or subdivisions of the State.

Art. 5.26. Maximum Rate Fixed

A maximum rate of premiums to be charged or collected by all companies transacting in this State the business of fire insurance, as herein defined, shall be exclusively fixed and determined and promulgated by the Board, and no such fire insurance company shall charge or collect any premium or other compensation for or on account of any policy or contract of fire insurance as herein defined in excess of the maximum rate as herein provided for, but may write insurance at a less rate than the maximum rate as herein provided for. When insurance is written for less than the maximum rate, such lesser rate shall be applicable to all risks of the same character situated in the same community.

Art. 5.27. No Company Exempt

Every fire insurance company, every marine insurance company, every fire and marine insurance company, every fire and tornado insurance company, and each and every insurance company of every kind and name issuing a contract or policy of insurance, or contracts or policies of insurance against loss by fire on property within this State, whether such property be fixed or movable, stationary or in transit, or whether such property is consigned or billed for shipment within or beyond the boundary of this State or to some foreign county, whether such company is organized under the laws of this State or under the laws of any other state, territory or possession of the United States, or foreign country, or by authority of the Federal Government, now holding certificate of authority to transact business in this State, shall be deemed to have accepted such certificate and to transact business thereunder, upon condition that it consents to the terms and provisions of this subchapter and that it agrees to transact business in this State, subject thereto; it being intended that every contract or policy of insurance against the hazard of fire shall be issued in accordance with the terms and provisions of this subchapter, and the company issuing the same governed

thereby, regardless of the kind and character of such property and whether the same is fixed or movable, stationary or in transit, including the shore end of all marine risks insured against loss by fire.

Art. 5.28. Statements and Books

Said Board is authorized and empowered to require sworn statements for any period of time from any insurance company affected by this law and from any of its directors, officers, representatives, general agents, state agents, special agents, and local agents of the rates and premiums collected for fire insurance on each class of risks, on all property in this State and of the causes of fire, if such be known, if they are in possession of such data, and information, or can obtain it at a reasonable expense; and said Board is empowered to require such statements showing all necessary facts and information to enable said Board to make, amend and maintain the general basis schedules provided for in this law and the rules and regulations for applying same and to determine reasonable and proper maximum specific rates and to determine and assist in the enforcement of the provisions of this law. The said Board shall also have the right, at its discretion, either personally, or by someone duly authorized by it, to visit the office whether general, local or otherwise, of any insurance company doing business in this State, and the home office of said company outside of this State, if there be such, and the office of any officers, directors, general agents, state agents, local agents or representatives of such company, and there require such company, its officers, agents or representatives, to produce for inspection by said Board or any of its duly authorized representatives all books, records and papers of such company or such agents and representatives; and the said Board or its duly authorized agents or representatives shall have the right to examine such books and papers and make or cause to be made copies thereof; and shall have the right to take testimony under oath with reference thereto, and to compel the attendance of witnesses for such purpose. Said Board shall be further empowered to require the fire insurance companies transacting business in this State or any of them, to furnish said Board with any and all data which may be in their possession, either jointly or severally, including maps, tariffs, inspection reports and any and all data affecting fire insurance risks in this State, or in any portion thereof, and said Board shall be empowered to require any two (2) or more of said companies, or any joint agent or representative of them, to turn over any and all such data in their possession, or any part thereof, to said Board for its use in carrying out the provisions of this law.

Art. 5.29. Schedule and Report

The rates of premium fixed by said Board in pursuance of the provision of this subchapter shall be at all times reasonable and the schedules thereof made and promulgated by said Board shall be in such forms as will in the judgment of the Board most clearly and in detail disclose the rate so fixed and determined by said Board to be charged and collected for policies of fire insurance. Said Board may employ and use any facts obtainable from and concerning fire insurance companies transacting business in this State, showing their expense and charges for fire insurance premiums for any period or periods said Board may deem advisable, which in their opinion will enable them to devise and fix and determine reasonable rates of premiums for fire insurance. The said Board in making and publishing schedules of the rates fixed and determined by it shall show all charges, credits, terms, privileges and conditions which in anywise affect such rates, and copies of all such schedules shall be furnished by said Board to any and all companies affected by this subchapter apply-

ing therefor, and the same shall be furnished to any citizens of this State applying therefor, upon the payment of the actual cost thereof. No rate or rates fixed or determined by the Board shall take effect until it shall have entered an order or orders fixing and determining same, and shall give notice thereof to all fire insurance companies affected by this subchapter, authorized to transact business in the State. The Board, and any inspector or other agent or employee thereof, who shall inspect any risk for the purpose of enabling the Board to fix and determine the reasonable rate to be charged thereon, shall furnish to the owner of such risk at the date of such inspection a copy of the inspection report, showing all defects that may operate as charges to increase the insurance rate.

Art. 5.30. Analysis of Rate

When a policy of fire insurance shall be issued by any company transacting the business of fire insurance in this State, such company shall furnish the policyholder with a written or printed analysis of the rate or premium charged for such policy, showing the items of charge and credit which determine the rate, unless such policyholder has theretofore been furnished with such analysis of such rate. All schedules of rates promulgated by said Board shall be open to the public, and every local agent of such fire insurance company shall have and exhibit to the public copies of such schedules covering all risks upon which he is authorized to write insurance.

Art. 5.31. Change or Limit of Rate

Said Board shall have full power and authority to alter, amend, modify or change any rate fixed and determined by it on thirty (30) days' notice, or to prescribe that any such rate or rates shall be in effect for a limited time, and said Board shall also have full power and authority to prescribe reasonable rules whereby in cases where no rate of premium shall have been fixed and determined by the Board, for certain risks or classes of risks, policies may be written thereon at rates to be determined by the company. Such company or companies shall immediately report to said Board such risk so written, and the rates collected therefor, and such rates shall always be subject to review by the Board.

Art. 5.32. Petition for Change

Any such fire insurance company shall have the right at any time to petition the Board for an order changing or modifying any rate or rates fixed and determined by the Board, and the Board shall consider such petition in the manner provided in this subchapter and enter such order thereon as it may deem just and equitable.

Art. 5.33. Reducing Hazard

The Board shall have full authority and power to give each city, town, village or locality credit for each and every hazard they may reduce or entirely remove, and also for all added fire fighting equipment, increased police protection, or any other equipment or improvement that has a tendency to reduce the fire hazard of any such city, town, village or locality, and also to give credit for a good fire record made by any city, town, village or locality. Said Board shall also have the power and authority to compel any company to give any or all policyholders credit for any and all hazards that said policyholder or holders may reduce or remove. Said credit shall be in proportion to such reduction or removal of such hazard and said company or companies shall return to such policyholder

or holders such proportional part of the unearned premium charged for such hazard that may be reduced or removed.

Art. 5.34. Revising Rates

The Board shall have authority after having given reasonable notice, not exceeding thirty (30) days, of its intention to do so, to alter, amend or revise any rates of premium fixed and determined by it in any schedules of such rates promulgated by it, and to give reasonable notice of such alteration, amendment or revision to the public, or to any company or companies affected thereby. Such altered, amended or revised rates shall be the rates thereafter to be charged and collected by all fire insurance companies affected by this subchapter. No policy in force prior to the taking effect of such changes or amendments shall be affected thereby, unless there shall be a change in the hazard of the risk, necessitating a change in the rate applicable to such risk, in which event such policy shall be subject to the new rates.

Art. 5.35. Uniform Policies

The Board shall make, promulgate and establish uniform policies of insurance applicable to the various risks of this State, copies of which uniform policies shall be furnished each company now or hereafter doing business in this State. After such uniform policies shall have been established and promulgated and furnished the respective companies doing business in this State, such companies shall, within sixty (60) days after the receipt of such forms of policies, adopt and use said form or forms and no other; also all companies which may commence business in this State after the adoption and promulgation of such forms of policies, shall adopt and use the same and no other forms of policies.

Art. 5.36. Standard Forms

The Board shall prescribe all standard forms, clauses and endorsements used on or in connection with insurance policies. All other forms, clauses and endorsements placed upon insurance policies shall be placed thereon subject to the approval of the Board. The Board shall have authority in its discretion to change, alter or amend such form or forms of policy or policies, and such clauses and endorsements used in connection therewith, upon giving notice.

Art. 5.37. Lien on Insured Property

Any provision in any policy of insurance issued by any company subject to the provisions of this subchapter to the effect that if said property is encumbered by a lien of any character or shall after the issuance of such policy become encumbered by a lien of any character, then such encumbrance shall render such policy void, shall be of no force and effect. Any such provision within or placed upon any such policy shall be null and void.

Art. 5.38. Co-insurance Clauses

No company subject to the provisions of this subchapter may issue any policy or contract of insurance covering property in this State, which shall contain any clause or provision requiring the assured to take out or maintain a larger amount of insurance than expressed in such policy, nor in any way providing that the assured shall be liable as a co-insurer with the company issuing the policy for any part of the loss or damage which may be caused by fire to the property described in such policy, and any such clause or provisions, except as herein provided, shall be

null and void, and of no effect; provided, co-insurance clauses and provisions may be inserted in policies written upon cotton, grain, or other products in process of marketing, shipping, storing or manufacturing.

Provided, further, it shall be optional with an insured to accept a policy or contract of insurance containing such clause or provision covering other classes of property, except private dwellings, and except stocks of merchandise offered for sale at retail when of a value less than Ten Thousand (\$10,000.00) Dollars, when a reduction in the rate is allowed for such policy, and said clause in such policy shall be valid and binding; and the Board of Insurance Commissioners shall have power to name the rates to apply when such co-insurance clause or provision shall be used.

Provided, further, that by appropriate order the Board of Insurance Commissioners may authorize, and in its discretion require the use of any form of co-insurance clauses on or in connection with insurance policies covering against the hazards of tornado, windstorm and hail, on any or all classes of property; the Board to make such rules and regulations with reference to such clauses and the use thereof, as well as credits in premium rates for the use thereof on policies covering against the hazards mentioned as it may deem proper.

Art. 5.39. Complaint of Rates or Orders

Any citizen or number of citizens of this State or any policyholder or policyholders, or any insurance company affected by this subchapter, or any board of trade, chamber of commerce, or other civic organization, or the civil authorities of any town, city, or village, shall have the right to file a petition with the Board, setting forth any cause of complaint that they may have as to any order made by this Board, or any rate fixed and determined by the Board, and they shall have the right to offer evidence in support of the allegations of such petition by witnesses, or by depositions, or by affidavits; upon the filing of such petition, the party complained of, if other than the Board, shall be notified by the Board of the filing of such petition and a copy thereof furnished the party or parties, company or companies, of whom complaint is made, and the said petition shall be set down for a hearing at a time not exceeding thirty (30) days after the filing of such petition and the Board shall hear and determine said petition; but it shall not be necessary for the petitioners or any one of them to be present to present the cause to the Board, but they shall consider the testimony of all witnesses, whether such witnesses testify in person or by depositions, or by affidavits, and if it be found that the complaint made in such petition is a just one, then the matter complained of shall be corrected or required to be corrected by said Board.

Art. 5.40. Hearing of Protests

The Board shall give the public and all insurance companies to be affected by its orders or decisions, reasonable notice thereof, not exceeding thirty (30) days, and an opportunity to appear and be heard with respect to the same; which notice to the public shall be published in one or more daily papers of the State, and such notice to any insurance company to be affected thereby shall be mailed addressed to the State or general agent of such company, if such address be known to the Board, or if not known, then such letter shall be addressed to some local agent of such company, or if the address of a local agent be unknown to the Board, then by publication in one or more of the daily papers of the State, and the Board shall hear all protests or complaints from any insurance company or any citizen or any city, or town, or village or any commercial or

civic organization as to the inadequacy or unreasonableness of any rates fixed by it or approved by it, or as to the inadequacy or unreasonableness of any general basis schedules promulgated by it or the injustice of any order or decision by it, and if any insurance company, or other person, or commercial or civic organization, or any city, town or village, which shall be interested in any such order or decision shall be dissatisfied with any regulation, schedule or rate adopted by such Board, such company or person, commercial or civic organization, city, town or village shall have the right, within thirty (30) days after the making of such regulation or order, or rate, or schedule or within thirty (30) days after hearing above provided for, to bring an action against said Board in the District Court of Travis County to have such regulation or order or schedule or rate vacated or modified; and shall set forth in a petition therefor the principal grounds of objection to any or all of such regulations, schedules, rates or orders. In any such suit the issue shall be formed and the controversy tried and determined as in other civil cases. The court may set aside and vacate or annul any or all or any part of any regulation, schedule, order or rate promulgated or adopted by said Board, which shall be found by the court to be unreasonable, unjust, excessive or inadequate, without disturbing others. No injunction, interlocutory order or decree suspending or restraining, directly or indirectly, the enforcement of any schedule, rate, order or regulation of said Board shall be granted. In such suit, the court, by interlocutory order, may authorize the writing and acceptance of fire insurance policies at any rate which in the judgment of court is fair and reasonable, during the pending of such suit, upon condition that the party to such suit in whose favor the said interlocutory order of said court may be, shall execute and file with the Board a good and sufficient bond to be first approved by said court, conditioned that the party giving said bond will abide the final judgment of said court and will pay to the Board whatever difference in the rate of insurance, it may be finally determined to exist between the rates as fixed by the Board complained of in such suit, and the rate finally determined to be fair and reasonable by the court in said suit, and the said Board, when it receives such difference in money, shall transmit the same to the parties entitled thereto.

Whenever any action shall be brought by any company under any provision of this article within said period of thirty (30) days, no penalties nor forfeitures shall attach or accrue on account of the failure of the plaintiff to comply with the orders, schedules, rates or regulations sought to be vacated in such action until the final determination of the same.

Either party to any such action, if dissatisfied with the judgment or decree of said court, may appeal therefrom as in other civil cases. No action shall be brought in any court of the United States to set aside any orders, rates, schedules or regulations made by said Board under the provisions of this law until all of the remedies provided herein shall have been exhausted by the party complaining.

Art. 5.41. Rebating or Discrimination

No company shall engage or participate in the insuring or reinsuring of any property in this State against loss or damage by fire except in compliance with the terms and provisions of this law; nor shall any such company knowingly write insurance at any lesser rate than the rates herein provided for, and it shall be unlawful for any company so to do, unless it shall thereafter file an analysis of same with the Board, and it shall be unlawful for any company, or its officers, directors, general agents, state agents, special agents, local agents, or its representa-

tives, to grant or contract for any special favor or advantages in the dividends or other profits to come thereon, or in commissions in the dividends or other profits to accrue thereon, or in commissions or division of commission, or any position or any valuable consideration or any inducement not specified in the policy contract of insurance; nor shall such company give, sell or purchase, offer to give, sell or purchase, directly or indirectly, as an inducement to insure or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, partnership or individual, or any dividends or profits accrued or to accrue thereon, or anything of value whatsoever, not specified in the policy. Nothing in this law shall be construed to prohibit a company from sharing its profits with its policyholders, if such agreement as to profit sharing shall be placed on or in the face of the policy, and such profit sharing shall be uniform and shall not discriminate between individuals or between classes. No part of the profit shall be paid until the expiration of the policy. Any company, or any of its officers, directors, general agents, state agents, special agents, local agents or its representatives, doing any of the acts in this article prohibited, shall be deemed guilty of unjust discrimination. If any agent or company shall issue a policy without authority, and any policyholder holding such policy shall sustain a loss or damage thereunder, said company or companies shall be liable to the policyholder thereunder, in the same manner and to the same extent as if said company had been authorized to issue said policies, although the company issued said policy in violation of the provisions of this subchapter. But this shall not be construed to give any company the right to issue any contract or policy of insurance other than as provided in this subchapter.

Art. 5.42. Not Retroactive

The provisions of this subchapter shall not deal with the collection of premiums, but each company shall be permitted to make such rules and regulations as it may deem just between the company, its agents, and its policyholders; and no bona fide extension of credit shall be construed as a discrimination, or in violation of the provisions of this subchapter. All policies heretofore issued which provide that said policies shall be void for non-payment of premiums at a certain specified time, shall be and the same are in full force and effect, provided, that the company or any of its agents have accepted the premium on said policies after the expiration of the dates named in said provisions fixing the date of payment.

Art. 5.43. Duty of Fire Marshal

The State Fire Marshal, at the discretion of the Board, and upon the request of the mayor of any city or village, or the chief of a fire department of any city or village, or any fire marshal where a fire occurs within such city or village, or of a county or a district judge, or of a sheriff or county attorney of any county where a fire occurs within the district or county of the officers making such request, or of any fire insurance company, or its general, State or special agent, interested in a loss, or of a policyholder sustaining a loss, or upon the direction of the Board, shall forthwith investigate at the place of such fire before loss can be paid, the origin, cause and circumstances of any fire occurring within this State, whereby property has been destroyed or damaged, and shall ascertain if possible whether the same was the result of any accident, carelessness or design, and shall make a written report thereof to the Board. The State Fire Marshal shall have the power to administer oaths, take testimony, compel the attendance of witnesses and the production of docu-

ments. When, in his opinion, further investigation is necessary, he shall take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts, or to have knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing, and if he shall be of the opinion that there is evidence sufficient to charge any person with arson, or with attempt to commit arson, or of conspiracy to defraud or criminal conduct in connection with such, he shall arrest or cause to be arrested such person, and shall furnish to the proper prosecuting attorney all evidence secured, together with the names of witnesses and all information obtained by him, including a copy of all material testimony taken in the case, and it shall be the duty of the State Fire Marshal to assist in the prosecution of all such complaints filed by him. All investigations held by or under the direction of the State Fire Marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and the witnesses may be kept separate from each other and not allowed to communicate with such others until they have been examined; and all testimony taken in an investigation under the provisions of this law may, at the election of the State Fire Marshal, be withheld from the public.

Art. 5.44. Authority of Fire Marshal

The State Fire Marshal is hereby authorized to enter at any time any buildings or premises where fire occurred or is in progress, or any place contiguous thereto, for the purpose of investigating the cause, origin and circumstances of such fire. The State Fire Marshal, upon complaint of any person, shall, at all reasonable hours, for the purpose of examination, enter into and upon all buildings and premises within this State, and it shall be his duty to enter upon and make or cause to be entered upon and made, at any time, a thorough examination of mercantile, manufacturing and public buildings, and all places of public amusement, or where public gatherings are held, together with the premises belonging thereto. Whenever he shall find any building or other structure which for want of repair or by reason of age or dilapidated condition, or which for any cause is liable to fire, and which is so situated as to endanger other buildings or property, or is so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues and pipes with which the same may be connected, or dangerous arrangement or lighting systems or devices, or dangerous storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible, inflammable and refuse materials, or other conditions which may be dangerous in character, or liable to cause or promote fire, or create conditions dangerous to firemen or occupants, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the occupant or owner of such building or premises, and the State Fire Marshal is hereby authorized, when necessary, to apply to a court of competent jurisdiction for the necessary writs or orders to enforce the provisions of this article and in such case he shall not be required to give bond.

Art. 5.45. Acting Fire Marshal

If for any reason the State Fire Marshal is unable to make any required investigation in person, he may designate the fire marshal of such city or town or some other suitable person to act for him; and such person so designated shall have the same authority as is herein given the

State Fire Marshal with reference to the particular matter to be investigated by him, and shall receive such compensation for his services as the Board may allow. If the investigation of a fire is made at the request of an insurance company, or at the request of a policyholder sustaining loss, or at the request of the mayor, town clerk or chief of the fire department of any city, village or town in which the fire occurred, then the expenses of the Fire Marshal, clerical expenses, witnesses and officers fees incident and necessary to such investigation shall be paid by such insurance company, or such policyholder or such city or town as the case may be, otherwise the expenses of such investigation are to be paid as part of the expenses of the Board. The party or parties, company or companies, requesting such investigation, shall before such investigation is commenced deposit with the Board an amount of money in the judgment of said Board sufficient to defray the expenses of said Fire Marshal in conducting such investigation.

Art. 5.46. Result of Investigation

No action taken by the State Fire Marshal shall affect the rights of any policyholder or any company in respect to a loss by reason of any fire so investigated; nor shall the result of any such investigation be given in evidence upon the trial of any civil action upon such policy, nor shall any statement made by any insurance company, its officers, agents or adjusters, nor by any policyholder, or anyone representing him, made with reference to the origin, cause or supposed origin or cause of a fire to the Fire Marshal or to anyone acting for him, or under his direction, be admitted in evidence or made the basis for any civil action for damages.

Art. 5.47. To Cancel Authority

If any insurance company affected by the provisions of this subchapter shall violate any provision of this subchapter, the Board shall, by and with the consent of the Attorney General, cancel its certificate of authority to transact business in this State.

Art. 5.48. Revocation of Certificate

The Board, upon ascertaining that any insurance company or officer, agent or representative thereof, has violated any provision of this subchapter, may, at its discretion, and with the consent and approval of the Attorney General, revoke the certificate of authority of such company, officer, agent, or representative but such revocation of any certificate shall in no manner affect the liability of such company, officer, agent, or representative to the infliction of any other penalty provided by law. Any action, decision or determination of the Board and the Attorney General in such cases shall be subject to the review of the courts of this State as herein provided.

Art. 5.49. Tax on Premiums as Additional Tax

The State of Texas shall assess and collect not exceeding an additional one and one-fourth (1 and 1/4%) per cent of the gross fire, lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lockout, explosion as defined in Article 5.52 of this code, water or other fluid or substance, resulting

from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other conduits or containers, insurance premiums of all companies doing such character of insurance business in this State according to reports made to the Board of Insurance Commissioners as required by law; and said taxes, when collected, shall be placed with the State Treasury, in a separate fund, which shall be known as the Fire Insurance Division Fund, which fund shall be kept separate and apart from other funds and moneys in his hands; and said special fund, or so much thereof as may be necessary, shall be held and expended for the purpose of carrying out the provisions of this subchapter; and should there be any unexpended balance at the end of any year, said balance shall remain in said fund and the Board of Insurance Commissioners shall reduce the assessment for the succeeding year so that the amount produced and paid into the State Treasury, together with said unexpended balance in said fund in the Treasury, will be sufficient to pay all expenses for the current year and not exceed the amount necessary to pay all necessary expenses of maintaining the Fire Insurance Division of said Board, so that no deficit shall occur in said fund, which fund shall be paid out upon requisition made out and filed by a majority of the Board, when the Comptroller shall issue warrants therefor. The taxes levied and assessed by this article shall be independent of and in addition to all other taxes now imposed, or which may hereafter be imposed by law, against any company mentioned herein.

Art. 5.50. Exceptions

This subchapter shall not apply to purely mutual or to purely profit-sharing fire insurance companies incorporated or unincorporated under the laws of this State, and carried on by the members thereof solely for the protection of their property and not for profit, nor to purely cooperative interinsurance and reciprocal exchange carried on by the members thereof solely for the protection of their property and not for profit.

Art. 5.51. Compensation of Board

The necessary compensation of experts, clerical force, and other persons employed by said Board, and all necessary traveling expenses, and such other expenses as may be necessary, incurred in carrying out the provisions of this subchapter, shall be paid by warrants drawn by the Comptroller upon the State Treasurer upon the order of said Board. The total amount of all salaries and said other expenses shall not exceed the sum produced by the assessments on the gross premiums of all fire insurance companies doing business in this State.

Art. 5.52. Provisions Governing Lightning, Windstorm, Hail, Invasion, Riot, Vandalism, Strikes, Lockouts and Other Insurance; "Explosion" Defined

The writing of insurance against loss by lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lockout, explosion, water or other fluid or substance, resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other conduits or containers, or resulting from casual water entering through leaks or

openings in buildings, or by seepage through building walls, including insurance against accidental injury of such sprinklers, pumps, fire apparatus, conduits or containers, and the rates to be collected therefor in this State, and all matters pertaining to such insurance except as hereinafter set out as to inland marine insurance, rain insurance and insurance against loss by hail on farm crops, shall be governed and controlled by the provisions of Articles 5.25 to 5.48, inclusive, and also Articles 5.50 to 5.51, inclusive, of this subchapter and Article 5.67 of Subchapter D of this Chapter, in the same manner and to the same extent as fire insurance and fire insurance rates are now affected by the provisions of said articles of this code.

The term "explosion" as used above shall not include insurance against loss of or damage to any property of the insured, resulting from the explosion of or injury to (a) any boiler, heater, or other fired pressure vessel; (b) any unfired pressure vessel; (c) pipes or containers connected with any of said boilers or vessels; (d) any engine, turbine, compressor, pump, or wheel; (e) any apparatus generating, transmitting or using electricity; (f) any other machinery or apparatus connected with or operating by any of the previously named boilers, vessels or machines; nor shall same include the making of inspections and issuance of certificates of inspections upon any such boiler, apparatus or machinery, whether insured or otherwise. Said term shall include, but shall not be limited to (1) the explosion of pressure vessels (except steam boilers of more than fifteen pounds pressure) in buildings designed and used solely for residential purposes by not more than four (4) families; (2) explosion of any kind originating outside of the insured buildings or outside of the building containing the property insured; (3) explosion of pressure vessels which do not contain steam or which are not operated with steam coils or steam jets; (4) electric disturbance causing or concomitant with an explosion in public service or public utility property.

Art. 5.53. Application to Inland Marine Insurance, Rain Insurance, or Hail Insurance on Farm Crops; Definitions; Rates and Rating Plans Filed; Policy Forms; Checking Offices

The provisions of this article shall apply to all insurance which is now or hereafter defined by statute, by ruling of the Board of Insurance Commissioners, or by lawful custom, as inland marine insurance, rain insurance, or insurance against loss by hail on farm crops. None of the terms contained in this article and Article 5.52 shall be deemed to include insurance of vessels or craft, their cargoes, marine builder's risk, marine protection and indemnity, or other risk commonly insured under marine as distinguished from inland marine insurance policies.

Whenever used in this article the term "Marine Insurance" shall mean and include insurance and reinsurance against any and all kinds of loss or damage to the following subject matters of insurance interest therein:

Marine Insurance. Hulls, vessels and craft of every kind, aids to navigation, dry docks and marine railways, including marine builders' and repairers' risks, and whether complete or in process of or awaiting construction; also all marine protection and indemnity risks; also all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests, and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit or transportation on or under any seas, lakes, rivers, or other waters or

in the air, or on land in connection with or incident to export, import or waterborne risks, or while being assembled, packed, crated, baled, compressed or similarly prepared for such shipment or while awaiting the same, or during any delays, storage, transshipment or reshipment incident thereto, including the insurance of war risks in respect to any or all of the aforesaid subject matters of insurance.

(a) As to all classes of insurance contained in this article, for which class rates or rating plans are customarily fixed by rating bureaus or associations of underwriters, rates or rating plans, together with applicable policy forms and endorsements, shall be filed by all authorized insurers writing such classes with the Board in such manner and form as it shall direct; and all rates on risks not falling within a recognized class fixed by any such bureau or association, together with applicable policy forms and endorsements, shall be similarly filed. Due consideration shall be given to past and prospective loss experience within and outside the State, including catastrophe hazard, to a reasonable margin for profit and contingencies, and to all other relevant factors within and outside the State.

(b) As soon as reasonably possible after the filing has been made, the Board shall in writing approve or disapprove the same; provided that any filing of class rates or rating plans, together with applicable policies and endorsements, shall be deemed approved unless disapproved within thirty (30) days; provided the Board may by official order postpone action for such further time not exceeding thirty (30) days, as it deems necessary for proper consideration; and provided further that rates on risks not falling within a recognized class fixed by a rating bureau or association of underwriters, together with applicable policies and endorsements, shall be deemed approved from the date of filing to the date of formal approval or disapproval. The Board may investigate rates not required to be filed under the provisions of this article and may require the filing of any particular rate, together with applicable policies and endorsements, not otherwise required to be filed.

(c) Any filing by an insurer of a rate less than an approved rate relative to any of the rates mentioned in sub-division (a) of this article may be used by such insurer after same shall have been approved by the Board, or after same shall have been on file with the Board without action for thirty (30) days.

(d) If at any time the Board finds that an approved filing no longer meets the requirements of this article, it may after hearing issue an order withdrawing its approval thereof.

(e) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the Board to accept such filings on its behalf. A corporation, an un-incorporated association, a partnership, or an individual, whether located within or outside the State, may be licensed as a rating organization in connection with any of the sorts of insurance mentioned in this article, subject to the conditions, not inconsistent herewith, prescribed by law for such organizations in connection with other kinds of insurance, provided two or more insurers have designated it to act for them as to any such class or classes of insurance in the manner prescribed herein. An insurer may belong or subscribe to rating bureaus or associations for other types of insurance.

(f) Insurers may, subject to the supervision of the Board, operate any checking office or offices deemed necessary or advisable.

(g) The writing of inland marine insurance, rain insurance and insurance against loss by hail on farm crops, shall be governed by the provisions of Articles 5.25 to 5.48, inclusive, and also Articles 5.50 to 5.51, inclusive, of this subchapter and Article 5.67 of Subchapter D. of this

chapter, in the same manner and to the same extent as fire insurance and fire insurance rates are now affected by the provisions of said articles, except that wherever in any of said articles reference is made to making, fixing, prescribing, determination or promulgation by the Board of rates or policy forms or endorsements, the provisions of this article shall control.

Art. 5.54. County Mutual Associations Excepted from Act

Nothing in Articles 5.49, 5.52, and 5.53 of this subchapter shall ever be construed to apply to any county or farm mutual insurance company or association, as regulated under Chapters 16 and 17 of this code.

SUBCHAPTER D. WORKMEN'S COMPENSATION INSURANCE

Art. 5.55. Workmen's Compensation Rates

The Board shall make, establish and promulgate all classifications of hazards and rates of premiums respectively applicable to each, contemplated and provided for by Title 130, known as the Workmen's Compensation Law and/or by the "Longshoremen's and Harbor Workers' Compensation Act" as enacted by the Congress of the United States. Said Board shall publish all rates promulgated by it as affecting Compensation Insurance in this State, and said rates, or any change therein, shall be published fifteen (15) days before they become effective and in force.

Art. 5.56. To Prescribe Standard Forms

The Board shall prescribe standard policy forms to be used by all companies or associations writing workmen's compensation insurance in this State. No company or association authorized to write workmen's compensation insurance in this State shall, except as hereinafter provided for, use any classifications of hazards, rates of premium, or policy forms other than those made, established and promulgated and prescribed by the Board.

Art. 5.57. Uniform Policy

The Board shall prescribe a uniform policy for workmen's compensation insurance and no company or association shall thereafter use any other form in writing workmen's compensation insurance in this State, provided that any company or association may use any form of endorsement appropriate to its plan of operation, if such endorsement shall be first submitted to and approved by the Board, and any contract or agreement not written into the application and policy shall be void and of no effect and in violation of the provisions of this subchapter, and shall be sufficient cause for revocation of license to write workmen's compensation insurance within this State.

Art. 5.58. To Assemble Data

The Board shall assemble all necessary data for its use in establishing classifications of hazards and making and promulgating premium rates.

Art. 5.59. May Require Statements

The Board may require sworn statements from any insurance company or association affected by this law showing the pay roll reported to it and incurred losses by classifications and such other information which in the judgment of the Board may be necessary in determining proper classifications, rates and forms. The Board shall prescribe the necessary forms for such statements and reports, having due regard to

the methods and forms in use in other states for similar purpose in order that uniformity of statistics may not be disturbed.

Art. 5.60. Experience Rating

The Board shall determine hazards by classes and fix such rates of premium applicable to the pay roll in each of such classes as shall be adequate to the risks to which they apply and consistent with the maintenance of solvency and the creation of adequate reserves and a reasonable surplus, and for such purpose may adopt a system of schedule and experience rating in such manner as to take account of the peculiar hazard of each individual risk, provided such rate shall be fair and reasonable and not confiscatory as to any class of insurance carriers authorized by law to write workmen's compensation insurance in this State. To insure the adequacy and reasonableness of rates, the Board shall take into consideration an experience gathered from a territory sufficiently broad to include the varying conditions of the industries in which the classifications are involved, and over a period sufficiently long to insure that the rates determined therefrom shall be just, reasonable, and adequate rates. The Board shall exchange information and experience data with the rate-making bodies of other states, and shall consult any national organization or association now or hereafter existing for the purpose of assembling data for the making of compensation insurance rate.

Art. 5.61. Adequate Reserves

Nothing in this subchapter shall be construed to prohibit the operation hereunder of any stock company, mutual company, reciprocal or interinsurance exchange, or Lloyd's association, to prohibit any stock company, mutual company, reciprocal or interinsurance exchange, or Lloyd's association, issuing participating policies, provided no dividend to subscribers under the Workmen's Compensation Act shall take effect until the same has been approved by the Board. No such dividend shall be approved until adequate reserve has been provided, said reserves to be computed on the same basis for all classes of companies or associations operating under this subchapter as prescribed under the applicable provisions of this code.

Art. 5.62. Board To Make Rules

The Board is hereby empowered to make and enforce all such reasonable rules and regulations not inconsistent with the provisions of this subchapter as are necessary to carry out its provisions.

Art. 5.63. Definitions

The words "Company" and "Association" used in this subchapter mean the Texas Employers Insurance Association, or any stock company, or any mutual company, or any reciprocal, or any interinsurance exchange, or Lloyd's association authorized to write Workmen's Compensation Insurance in this State.

Art. 5.64. Cancellation of License

The Board shall cancel the license of any insurance company or association of persons to transact workmen's compensation insurance business in this State upon a second conviction of any officer or representative of such company or association for a violation of any provision of this subchapter relating to such business.

Art. 5.65. Hearing Before Board

Any policyholder, insurance company or association shall have the right to a hearing before the Board on any grievance occasioned by the promulgation of any classification, rate or policy form by the Board; such hearing to be held in conformity with rules to be prescribed by the Board. No hearing shall suspend the operation of any classification, rate or policy form unless the Board shall so order. Provided that any party aggrieved shall have the right to apply to any court of competent jurisdiction to obtain redress.

Art. 5.66. Scope of Law

No provision of Chapter 5, subchapter C of this code, with regard to the fixing and promulgation of rates for fire insurance or the prescribing of fire insurance policies and forms shall be applicable to the fixing of compensation insurance classifications or the making of compensation insurance rates or the prescribing of compensation insurance policy forms; but the provisions of this subchapter shall be construed and applied independently of any other law or laws, or parts of laws, having to do with the matter of insurance rates and forms or of fixing the duties of the Board.

Art. 5.67. Additional Compensation

The necessary compensation of experts, the clerical force and other persons employed by the Board to carry out the purposes of this subchapter, and all necessary traveling expenses and such other expenses as may be necessarily incurred in carrying out such provisions shall be paid by warrants drawn by the Comptroller upon the State Treasurer upon the order of said Board. The total amount of all salaries and said other expenses shall not exceed the sum assessed and collected from companies and associations writing workmen's compensation insurance in this State.

Art. 5.68. Tax on Gross Premiums

To defray the expense of carrying out the provisions of this subchapter, there shall be annually assessed and collected by the State of Texas from each stock company, mutual company, reciprocal or interinsurance exchange, or Lloyds association writing Workmen's Compensation Insurance in this State, in addition to all other taxes now imposed, or which may hereafter be imposed by law, a tax of three-fifths ($\frac{3}{5}$) of one (1%) per cent of gross premiums collected by such company or association during the preceding year, under Workmen's Compensation policies written by said companies or associations covering risks in this State, according to the reports made to the Board as required by law. Said taxes when collected shall be placed in a separate fund with the State Treasurer which shall be kept separate and apart from other funds and moneys in his hands, and shall be known as the Compensation Insurance Division Fund, said Fund to be expended during the current and succeeding years, or so much thereof as may be necessary, in carrying out such provisions. Such expenditures hereunder shall not exceed in the aggregate the sum assessed and collected from said companies and associations; and should there be an unexpended balance at the end of any year, the Board of Insurance Commissioners shall reduce the assessment for the succeeding year so that the amount produced and paid into the State Treasury together with said unexpended balance in the Treasury will be sufficient to pay all expenses of carrying out the provisions of this subchapter, which funds shall be paid out upon requisition made out and filed by a majority of the Board of Insurance Commissioners when the

Comptroller shall issue warrants therefor. Any amount remaining in said Fund at the end of any year shall be carried over and expended in accordance with the provisions of this subchapter during the subsequent year or years.

SUBCHAPTER E. NATIONAL DEFENSE PROJECTS

Art. 5.69. National Defense Projects; Special Rates and Rating Plans for Workmen's Compensation, Motor Vehicle, and Other Casualty Insurance

The Board of Insurance Commissioners of Texas is hereby authorized and empowered to make and promulgate special rates and special rating plans for Workmen's Compensation, Motor Vehicle and other lines of Casualty insurance to be applicable only to the construction or operation of National Defense Projects in Texas, and to make such special rates and special rating plans separately for each class of insurance, or in combination of all such classes. The Board shall also have authority to make and promulgate such rules and regulations as may be necessary, proper or advisable in placing such rates and plans in effect.

Art. 5.70. Special Rates and Forms for Fire, Windstorm, Other Types of Material Damage Insurance

The Board of Insurance Commissioners is hereby authorized and empowered to promulgate special rates and forms for fire and windstorm insurance, and other types of material damage insurance required or used upon such National Defense Projects, and the Board may also promulgate rules and regulations incidental to said business and necessary to place its special rates and forms in effect.

Art. 5.71. Cumulative; Exception to Existing Laws

This subchapter shall be cumulative of existing laws and applicable only to rates upon insurance in relation to National Defense Projects, and to the extent of such subject constitutes an exception to existing laws.

SUBCHAPTER F. JOINT UNDERWRITING AND REINSURANCE; ADVISORY ORGANIZATIONS

Art. 5.72. Joint Underwriting or Joint Reinsurance

(a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided.

(b) If, after a hearing, the Board of Insurance Commissioners finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this subchapter or with the laws applicable thereto, it may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the applicable laws, and requiring the discontinuance of such activity or practice.

Art. 5.73. Advisory Organizations

(a) Every group, association or other organization of insurers, whether located within or outside this State, which assists insurers which make their own filings or rating organizations in rate making, by the collec-

tion and furnishing of loss or expense statistics, or by the submission of recommendations but which does not make filings under any of the laws referred to in Article 5.75 of this subchapter, or which assists the Board of Insurance Commissioners in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, shall be known as an advisory organization.

(b) Every advisory organization shall file with the Board: (1) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation and of its by-laws, rules and regulations governing its activities; (2) a list of its members; (3) the name and address of a resident of this State upon whom notices or orders of the Board or process issued at its direction may be served; and (4) an agreement that the Board may examine such advisory organization in accordance with the provisions of Article 5.74 of this subchapter.

(c) If, after a hearing, the Board finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this subchapter or with the applicable laws referred to in Article 5.75 of this subchapter, it may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this subchapter, or with the applicable laws referred to in Article 5.75 of this subchapter, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the Board involving such statistics or recommendations issued under sub-section (c) of this article. If the Board finds such insurer or rating organization to be in violation of this sub-section it may issue an order requiring the discontinuance of such violation.

Art. 5.74. Examinations

The said Board may, as often as it may deem it expedient, make or cause to be made an examination of each group, association, or other organization referred to in Articles 5.72 and 5.73 of this subchapter. The reasonable costs of any such examination shall be paid by the group, association or other organization examined upon presentation to it of a detailed account of such costs. The officer, manager, agents and employees of such group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the Board may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

Art. 5.75. Scope of Subchapter

This subchapter applies to the kinds of insurance and to the insurers subject to Subchapters A, B, C, and D of Chapter 5 of this code.

CHAPTER SIX

FIRE AND MARINE COMPANIES

Art.

- 6.01. Board Shall Calculate Reserve on Fire Insurance.
- 6.02. Board Shall Charge Premiums.
- 6.03. What May Be Insured.
- 6.04. Reduction of Capital Stock.
- 6.05. Capital Stock to Be Made Good.
- 6.06. Stockholder Failing to Pay.
- 6.07. New Stock.
- 6.08. Holding Real Estate.
- 6.09. Shall File Bond.
- 6.10. May Deposit Securities.
- 6.11. Annual Statement.
- 6.12. Details of Annual Statement.
- 6.13. Policy a Liquidated Demand.
- 6.14. Breach by Insured.
- 6.15. Interest of Mortgagee or Trustee.
- 6.16. Reinsurance.

Art. 6.01. Board Shall Calculate Reserve on Fire Insurance

For every company doing fire insurance business in this State, the Board shall calculate the reinsurance reserve for unexpired fire risks by taking fifty (50%) per cent of the premiums received on all unexpired risks that have one (1) year or less to run, and a pro rata of all premiums received on risks that have more than one (1) year to run. When the reinsurance reserve, calculated as above, is less than forty (40%) per cent of all premiums received during the year the reinsurance reserve in this case shall be the whole of the premiums received on all of its unexpired risks.

Art. 6.02. Board Shall Charge Premiums

In marine and inland insurance, the Board shall charge all the premiums received on unexpired risks as a reinsurance reserve.

Art. 6.03. What May Be Insured

It shall be lawful for any insurance company doing business in this State under the proper certificate of authority, except a life insurance company, to insure houses, buildings and all other kinds of property against loss or damage by fire; to take all kinds of insurance on goods, merchandise, or other property in the course of transportation, whether on land or water, or any vessel afloat, wherever the same may be; to lend money on bottomry or respondentia; to cause itself to be insured against any loss or risk it may have incurred in the course of its business and upon the interest which it may have in any property by means of any loan or loans which it may have on bottomry or respondentia; and generally to do and perform all other matters and things proper to promote these objects; to insure automobiles or other motor vehicles, whether stationary or being operated under their own power, against all or any of the risks of fire, lightning, windstorms, hail storms, tornadoes, cyclones, explosions, transportation by land or water, theft and collisions, upon filing with the Board notification of their purpose to do so.

Art. 6.04. Reduction of Capital Stock

Whenever the joint stock of any fire, fire and marine, or marine insurance company of this State becomes impaired, the Board may, in its discretion, permit the same company to reduce its capital stock and par value of its shares in proportion to the extent of impairment. In fixing such reduced capital, no sum exceeding Twenty-Five Thousand (\$25,000.00) Dollars shall be deducted from the assets and property on hand, which shall be retained as surplus assets. No part of such assets and property shall be distributed to the stockholders, nor shall the capital stock of a company in any case be reduced to an amount less than One Hundred Thousand (\$100,000.00) Dollars.

Art. 6.05. Capital Stock to Be Made Good

Any fire, marine or inland insurance company having received notice from the Board to make good its whole capital stock within sixty (60) days shall forthwith call upon its stockholders for such amounts as shall make its capital equal to the amount fixed by the charter of such company.

Art. 6.06. Stockholder Failing to Pay

If any stockholder of such company shall neglect or refuse to pay the amount so called for, after notice personally given, or by advertisement for such time and in such manner as said Board shall approve, it shall be lawful for said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue a new certificate for such number of shares as such defaulting stockholder may be entitled to in the proportion that the ascertained value of the funds of said company may be found to bear to the original capital of said company; the value of such shares for which new certificates are issued shall be ascertained under the direction of said Board, and the company shall pay for the fractional parts of shares.

Art. 6.07. New Stock

It shall be lawful for such company to create new stock and dispose of the same and to issue new certificates therefor, to any amount sufficient to make up the original capital of the company.

Art. 6.08. Holding Real Estate

No fire, marine or inland insurance company organized under the laws of this State shall purchase or hold any real estate, except—

1. Such as shall be requisite for its convenient accommodation in the transaction of its business.

2. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for money due.

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the legitimate business of the company or for money due.

4. Such as shall have been purchased at sales under judgments, decrees or mortgages obtained or made for such debts.

All lands purchased or held in violation of this article shall be forfeited to the State.

Art. 6.09. Shall File Bond

Every fire insurance company, not organized under the laws of this State, applying for a certificate of authority to transact any kind of insurance in this State, shall, before obtaining such certificate, file with the Board a bond, with good and sufficient surety or sureties, to be approved by and to be payable to the Board and its successors in office, in

a sum equal to twenty-five (25%) per cent of its premiums collected from citizens or upon property in this State during the preceding calendar year, as shown by its annual report for such year. The bond in no case shall be less than Ten Thousand (\$10,000.00) Dollars, nor more than Seventy-Five Thousand (\$75,000.00) Dollars, conditioned that said company will pay all its lawful obligations to citizens of this State. Such bonds shall be subject to successive suits by citizens of this State so long as any part of the same shall not be exhausted, and the same shall be kept in force until all claims of such citizens arising out of obligations of said company have been fully satisfied, but in no event shall the total recoveries permitted on said bonds exceed the face value thereof. Such bonds shall provide that in the event the company shall become insolvent or cease to transact business in this State, at any time, when it has outstanding policies of insurance in favor of citizens of this State, or upon property in this State, the Board shall have power, after having given ten (10) days notice to the officers of such company, or any receiver in charge of its property and affairs, to contract with any other insurance company transacting business in this State for the assumption and reinsurance by it of all the insurance risks outstanding in this State of such company which is insolvent, or which has ceased to transact business in this State, which contract shall also provide for the assumption by such reinsurance company of all outstanding and unsatisfied lawful claims then outstanding against such company which has become insolvent, or ceased to transact business in this State. In the event of the Board making any such contract, and if the same shall be approved as reasonable by the Attorney General and the Governor of this State, the reinsuring company shall be entitled to recover from the makers of such bond the amount of the premium or compensation so agreed upon for such reinsurance. Any company desiring to do so may, at its option, in lieu of giving the bond required by this article, deposit securities of any kind in which it may lawfully invest its funds with the State Treasurer upon such terms and conditions as will in all respects afford the same protection and indemnity as herein provided for to be afforded by said bond.

Art. 6.10. May Deposit Securities

Every fire insurance company, not organized under the laws of this State, hereafter issuing or causing or authorizing to be issued, any policy of insurance other than life insurance, shall first have filed with the Board during the calendar year in which such policy may issue, or authorize or cause to be issued, a bond of good and sufficient sureties to be approved by such Board in a sum of not less than Ten Thousand (\$10,000.00) Dollars, conditioned for the payment of all lawful obligations to citizens of this State arising out of any policies or contracts issued by such fire insurance company; which such bonds shall be subject to successive suits by citizens of this State so long as any part of the same shall not be adjusted, and so long as there remains outstanding any such obligations or contracts of such fire insurance company, but in no event shall the total recoveries permitted on said bond exceed the face value thereof. This article shall not apply to any person, firm or corporation, or association, doing an inter-insurance, co-operative or reciprocal business.

Art. 6.11. Annual Statement

The president or vice-president and secretary of each fire, marine or inland insurance company doing business in this State, annually, on the first day of each year, or within sixty days thereafter, shall prepare under oath and deposit with the Board a full, true and complete statement of

the condition of such company on the last day of the month of December preceding.

Art. 6.12. Details of Annual Statement

Such annual statement shall exhibit the following items and facts:

1. The name of the company and where located.
2. The names and residence of the officers.
3. The amount of the capital stock of the company.
4. The amount of capital stock paid up.
5. The property or assets held by the company, viz: the real estate owned by such company, its location, description and value as near as may be, and if said company be one organized under the laws of this State, shall accompany such statement with an abstract of the title to the same; the amount of cash on hand and deposited in banks to the credit of the company, and in what bank or banks the same is deposited; the amount of cash in the hands of agents, naming such agents; the amount of cash in course of transmission; the amount of loans secured by first mortgages on real estate, with the rate of interest thereon, specifying the location of such real estate, its value and the name of the mortgagor; the amount of all bonds and other loans, with the rate of interest thereon and how secured; the amount due the company in which judgments have been obtained, describing such judgments; the amount of any stock owned by the company, describing the same and specifying the amount and number of shares, and the par and market value of each kind of stock; the amount of stock held by such company as collateral security for loans, with amount loaned on each kind of stock, its par and market value; the amount of interest actually due to the company and unpaid; all other securities, their description and value.
6. The liabilities of such company, specifying the losses adjusted and due; losses adjusted and not due; losses unadjusted; losses in suspense and the cause thereof; losses resisted and in litigation; dividends, either in script or cash, specifying the amount of each declared but not due; dividends declared and due; the amount required to reinsure all outstanding risks on the basis of forty (40%) per cent of the premium on all unexpired fire risks and one hundred (100%) per cent of the premium on all unexpired marine and inland transportation risks; the amount due banks or other creditors, naming such banks or other creditors and the amount due to each; the amount of money borrowed by the company, of whom borrowed, the rate of interest thereon and how secured; all other claims against the company, describing the same.
7. The income of the company during the preceding year, stating the amount received for premiums, specifying separately fire, marine and inland transportation premiums, deducting reinsurance; the amount received for interest, and from all other sources.
8. The expenditures during the preceding year, specifying the amount of losses paid during said term, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement; the amount paid for dividends; the amount paid for return premiums, commissions, salaries, expenses, and other charges of officers, agents, clerks, and other employees; the amount paid for local, State, National, internal revenue and other taxes and duties; the amount paid for all other expenses, such as fees, printing, stationery, rents, furniture, etc.
9. The largest amount insured in any one (1) risk, naming the risk.
10. The amount of risks written during the preceding year.

11. The amount of risks in force having less than one (1) year to run.
12. The amount of risks in force having more than one (1) and not over three (3) years to run.
13. The amount of risks having more than three (3) years to run.
14. Whether or not dividends are declared on premiums received for risks not terminated.

Art. 6.13. Policy a Liquidated Demand

A fire insurance policy, in case of a total loss by fire of property insured, shall be held and considered to be a liquidated demand against the company for the full amount of such policy. The provisions of this article shall not apply to personal property.

On and after January 1, 1951, the provisions of the preceding paragraph of this article shall be incorporated verbatim in each and every fire insurance policy hereafter issued as coverage on any real property in this State; and it shall be the duty of the Board of Insurance Commissioners, by proper order and procedure, to compel compliance with this statute.

Art. 6.14. Breach by Insured.

No breach or violation by the insured of any warranty, condition or provision of any fire insurance policy, contract of insurance, or applications therefor, upon personal property, shall render void the policy or contract, or constitute a defense to a suit for loss thereon, unless such breach or violation contributed to bring about the destruction of the property.

Art. 6.15. Interest of Mortgagee or Trustee

The interest of a mortgagee or trustee under any fire insurance contract hereafter issued covering any property situated in this State shall not be invalidated by any act or neglect of the mortgagor or owner of said described property or the happening of any condition beyond his control, and any stipulation in any contract in conflict herewith shall be null and void.

Art. 6.16. Reinsurance

1. No insurance company incorporated under the laws of the United States or of any State thereof and authorized to do business in this State in the writing of fire and allied lines of insurance as those terms may now or hereafter be defined by statute, by ruling of the Board of Insurance Commissioners of Texas, hereinafter called the "Board," or by lawful custom, shall expose itself to any loss or hazard on any one (1) 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, unless the excess shall be reinsured by such company in another solvent insurer. Similarly, no insurance company incorporated under a jurisdiction other than that of the United States or a state thereof and authorized to do business in this State in the writing of said lines of insurance shall expose itself to any loss or hazard on any one (1) risk, except when insuring cotton in bales, and grain, to an amount exceeding ten (10%) per cent of the company's deposit with the statutory officer in the state through which the company gains admission to the United States, together with ten (10%) per cent of the other surplus to policyholders of the company's United States Branch, unless the excess shall be reinsured by such company in another solvent insurer.

2. Any insurance or reinsurance company authorized to transact insurance or reinsurance within this State as to lines of insurance defined

in Section 1 hereof, may reinsure the whole or any part of an individual risk in another solvent insurer. The consent of the Board shall be obtained when an insurer reinsures all of its liability on its risks within any class of insurance defined in Section 1 hereof with another insurer not authorized to do business in Texas.

3. No credit for the reserve for unearned premium liability on such reinsurance shall be taken by the ceding insurer unless the assuming insurer is licensed to do business in this State, except that a ceding insurer domiciled in Texas may reinsure the whole or any part of risk or risks located without the State of Texas, the assuming insurer to be a solvent insurer duly licensed in the State or district where such reinsured risk or risks be located.

4. The Board shall require schedules of reinsurance to be filed by every insurer at the time of making the annual report and at such other times as it may direct.

5. As to the risk or classes of risks mentioned in Section 1 hereof, no credit shall be allowed to any ceding insurer for reinsurance made, ceded, renewed, or otherwise becoming effective after January 1, 1950, as an admitted asset or as a reduction of liability, unless by the terms of a written reinsurance agreement the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under any policy or contract reinsured without diminution because of the insolvency of the ceding insurer, nor unless under the contract or contracts of reinsurance the liability of such reinsurance is assumed by the assuming insurer or insurers as of the same effective date. Such reinsurance agreement may provide that the liquidator or receiver or statutory successor of an insolvent ceding insurer shall give written notice of a pendency of a claim against the insolvent ceding insurer on the policy reinsured within a reasonable time after such claim is filed in the insolvency proceeding, and that during the pendency of such claim any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where the claim is to be adjudicated any defense or defenses which it may deem available to the ceding insurer or its liquidator or receiver or statutory successor. Subject to court approval, the expense thus incurred by the assuming insurer shall be chargeable against the insolvent ceding insurer as part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer.

Where two (2) or more assuming insurers are involved in the same claim and a majority in interest elect to interpose defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding company.

6. Any licensed company may act in the obtaining of reinsurance from an insurer not licensed to do business in Texas through any of its officers or appointed representatives.

7. "Assuming insurer" means that insurer which under a contract of reinsurance incurs to another insurer called the "ceding insurer," an obligation of which the performance is contingent upon the incurring of liability or loss by the ceding insurer under its contract or contracts of insurance made with third persons.

8. None of the provisions of this article shall prohibit the making of contracts to protect against catastrophe losses. Any ceding licensed insurer shall have the right to make such contracts with an assuming non-licensed insurer and shall not be required to make the report thereof.

CHAPTER SEVEN

SURETY AND TRUST COMPANIES

A. FIDELITY, GUARANTY AND SURETY COMPANIES

Art.

- 7.01. To Act as Surety.
- 7.02. Bond of Surety Company.
- 7.03. Requirements to be Complied With.
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B. TRUST COMPANIES

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SUBCHAPTER A. FIDELITY, GUARANTY AND SURETY COMPANIES

Art. 7.01. To Act as Surety

Private corporations may be created to act as trustee, assignee, executor, administrator, guardian and receiver, when designated by any person, corporation or court to do so; to do a general fiduciary and depository business; to act as surety and guarantor of the fidelity of employees, trustees, executors, administrators, guardians or others appointed to, or assuming the performance of any trust, public or private, under appointment of any court or tribunal, or under contract between private individuals or corporations; also upon any bond or bonds that may be required to be filed in any judiciary proceedings; also to guarantee any contract or undertaking between individuals, or between private corporations, or between individuals or private corporations and the State and municipal corporations or counties or between corporations and individuals; to act as executor and testamentary guardian when designated by such decedents; or to act as administrator or guardian when appointed by any court having jurisdiction; also on any bond or bonds that may be required of any State official, district official, county official or official of any school district or of any municipality, provided that the commissioners courts of each county shall have the right to reject any or all official bonds made by surety companies and in their discretion may require any or all officials to make their official bonds by personal sureties. Any such bond may be accepted and approved by the officer charged by law with the duty of accepting and approving the same without being signed by other sureties than such company. When any such bond shall exceed Fifty Thousand (\$50,000.00) Dollars in penal sum, the officer charged by law

with the duty of approving and accepting such bond may require that such bond be signed by two or more surety companies, or by one surety company and two or more good and sufficient personal sureties, in the discretion of the principal or official of whom the bond is required, and any statute or law to the contrary, or requiring any such bond to be signed by two or more good and sufficient sureties, shall be governed and controlled by the provisions of this article.

Each company, making or offering to make any bond under this article, shall publish in some newspaper of general circulation in the county where such company is organized or has its principal office on the first day of February of each year, a statement of its condition on the previous thirty-first day of December, showing under oath its assets and liabilities. A copy of said statement shall be filed with the Board before the first day of March of the year following, and a fee of Twenty (\$20.00) Dollars be paid to the Board for filing the same, and an examination of its affairs may be made at any time by the Board at the expense of the company. Said company organized under the provisions of this article shall have a paid up capital stock of not less than One Hundred Thousand (\$100,000.00) Dollars and shall keep on deposit with the State Treasurer money, bonds or other securities in an amount not less than Fifty Thousand (\$50,000.00) Dollars. Said securities shall be approved by the Board, and this amount shall be kept intact at all times.

All foreign companies transacting the business of a guaranty and fidelity company in this State shall file with the Board an affidavit showing that such foreign company has on deposit with the State Treasurer of its home state One Hundred Thousand (\$100,000.00) Dollars or more, in money, bonds or other securities for the protection of its policyholders.

Art. 7.02. Bond of Surety Company

Whenever any bond, undertaking, recognizance or other obligation is, by law or the charter, ordinances, rules and regulations of a municipality, board, body, organization, court, judge or public officer, required or permitted to be made, given, tendered or filed, and whenever the performance of any act, duty or obligation, or the refraining from any act, is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guarantee may be executed by a surety company, qualified as hereinbefore provided; and such execution by such company of such bond, undertaking, obligation, recognizance or guarantee shall be in all respects a full and complete compliance with every law, charter, rule or regulation that such bond, undertaking, obligation, recognizance or guarantee shall be executed by one surety or by one or more sureties, or that such sureties shall be residents, or householders, or freeholders, or either, or both, or possess any other qualification and all courts, judges, heads of departments, boards, bodies, municipalities, and public officers of every character shall accept and treat such bond, undertaking, obligation, recognizance or guarantee when so executed by such company, as conforming to, and fully and completely complying with, every requirement of every such law, charter, ordinance, rule or regulation. Any suit on any bond issued under this and the preceding article shall be brought at the place as provided for in this chapter, and if the company issuing the bond sued on has no agent in the county where said bond was issued, then the Chairman of the Board of Insurance Commissioners is made, by consent of the said company, its agent on whom service of process may be had.

Art. 7.03. Requirements to be Complied With

Such company to be qualified to so act as surety or guarantor, must comply with the requirements of every law of this State applicable to such company doing business therein; must be authorized under the laws of the State where incorporated, and under its charter, to become surety on such bond, undertaking, obligation, recognizance or guarantee; must have a fully paid up and safely unimpaired capital of at least One Hundred Thousand (\$100,000.00) Dollars; must have good available assets exceeding its liabilities, which liabilities for the purpose of this subchapter shall be taken to be its capital stock, its outstanding debts and a premium reserve at the rate of fifty (50%) per cent of the current annual premiums on each outstanding bond, undertaking, recognizance and obligation of like character in force; must file with the Board of Insurance Commissioners a certified copy of its certificate of incorporation, a written application to be authorized to do business under this subchapter and also, with such application, and in each year thereafter, a statement verified under oath made up to December 31, preceding, stating the amount of its paid up cash capital, particularizing each item of investment, the amount of premiums upon existing bonds, undertakings, recognizances and obligations of like character in force upon which it is surety; the amount of liability for unearned portion thereof estimated at the rate of fifty (50%) per cent of the current annual premiums on each such bond, undertaking, recognizance and obligation in force, stating also the amount of its outstanding debts of all kinds, and such further facts as may be by the laws of this State required of such company in transacting business therein.

If such company be organized under the laws of any other state, it must also have on deposit with a state officer of one of the states of the United States, not less than One Hundred Thousand (\$100,000.00) Dollars in good securities, deposited with and held by such officer for the benefit of the holders of all obligations wheresoever incurred; must also appoint an attorney in this State upon whom process of law can be served, which appointment shall continue until revoked or another attorney substituted, and must file with the Board of Insurance Commissioners written evidence of such appointment, which shall state the residence and office of such attorney; and such service of process may also be made upon the Chairman of the Board by virtue of his office, and shall be as effective as if made upon said attorney; and must, also, have on deposit with the Treasurer of this State at least Fifty Thousand (\$50,000.00) Dollars in good securities worth at par and market value at least that sum, of the value of which securities the Board of Insurance Commissioners shall judge, held for the benefit of the holders of all the obligations of such company wheresoever incurred; said securities so deposited with said Treasurer to remain with him in trust to answer any default of said company as surety upon any such bond, undertaking, recognizance or other obligation established by final judgment in whatsoever court and wheresoever rendered upon which execution may lawfully be issued against said company, said Treasurer and his successors in office being hereby directed to so receive and hereafter retain such deposit under this law in trust for the purposes hereof; such company, however, at all times to have the right to collect the interest, dividends and profits upon such securities, and, from time to time, to withdraw such securities, or portions thereof, substituting therefor others of equally good character and value, to the satisfaction of said Treasurer; and such securities and substitutes therefor shall be, at all times, exempt from and not subject to levy under writ or process of attachment; and shall not be sold under any process against such company until after thirty (30) days notice to

said company, specifying the time, place, and manner of such sale, and the process under which and purposes for which it is to be made, accompanied by a copy of such process.

Whenever any such company, domestic or foreign, has been engaged in this State in the business contemplated by this law, has made a deposit in this State, in trust or otherwise, of securities, to answer any default of such company upon any such bond, undertaking, recognizance, guaranty or stipulation, such securities so deposited shall be by the trustee or custodian thereof transferred and delivered to the State Treasurer in trust for the same purposes and subject to all the rights and equities of all parties interested, and to the terms and provisions of this law; and thereupon, such deposit shall remain in trust under and subject to the terms and provisions of this law. Whenever such deposit has been made with a trustee by order of any court or other authority, it shall be the duty of the court or other authority, by order or otherwise, to direct such transfer to said Treasurer; and in case such deposit is less than the sum of Fifty Thousand (\$50,000.00) Dollars, then said company must deposit with said Treasurer securities sufficient to increase said deposit to the sum of Fifty Thousand (\$50,000.00) Dollars as required by this subchapter.

Domestic corporations chartered for the purpose of doing business under this subchapter, within this State alone shall be required to deposit securities as hereinbefore provided for to the amount of Twenty-Five Thousand (\$25,000.00) Dollars.

Art. 7.04. Certificate to Issue

The Board of Insurance Commissioners upon due proof by any such company of its possessing the qualifications in this subchapter specified, shall issue to such company a certificate setting forth that such company has qualified, and is authorized for the ensuing year to do business under this subchapter, which said certificate shall be evidence of such qualification of such company, and of its authorization to become and to be accepted as sole surety on all bonds, undertakings, recognizances and obligations required or permitted by law or the charter, ordinance, rules or regulations of any municipality, board, body, organization or public officer, and the solvency or credit of such company for all purposes, and its sufficiency as such surety.

Art. 7.05. Certificate to be Surrendered

Any such company, domestic or foreign, may at any time surrender to the Board of Insurance Commissioners its said certificate of qualification, and shall thereupon cease to engage in said business of suretyship; and such company shall thereupon be entitled to the release and return of its said deposit as aforesaid in manner following: Said company shall file with said Board of Insurance Commissioners a statement in writing, under oath, giving the date, name and amount of all its then existing obligations of suretyship in this State, briefly stating the facts of each case to said Board of Insurance Commissioners, who after examination of the facts, shall require said company to file with the State Treasurer a bond payable to the State, in a sum equal to the whole amount of its liability in this State, under its contracts, conditioned for the faithful performance and fulfillment of all its outstanding obligations, or it may, at its option, reinsure its risks in some surety company authorized to do business in this State, or cancel all bonds on which it is liable, and return a pro rata of the premium received thereon, whenever such cancellation and return can be done without impairing its obligations to third parties.

Art. 7.06. May Withdraw from Bond

Any surety company may withdraw from the bond of any trustee, guardian, assignee, receiver, executor, administrator or other fiduciary, in like manner and by like proceeding as is now provided by law in the case of individual sureties.

Art. 7.07. Venue of Suit on Bond

If any suit shall be instituted upon any bond or obligation of any surety company, the proper court of the county wherein said bond is filed shall have jurisdiction of said cause. Service therein shall be had, either upon the attorney for said company, by this subchapter required to be appointed, or upon the Chairman of the Board; and such service shall be to all intents valid and effectual as service upon said company. Such guaranty, fidelity and surety companies shall be deemed resident of the counties wherever they may do business, and the doing or performing of any business in any county shall be deemed an acceptance of the provisions of this subchapter.

Art. 7.08. Defaulting Company; Claims Paid

Should any company of the character mentioned in this subchapter fail or refuse to pay any loss by it whatsoever incurred within sixty (60) days after its liability thereupon shall have been finally determined by the judgment of any court of competent jurisdiction wheresoever rendered, then upon satisfactory proof to the Treasurer of this State of such liability and of its non-payment, said Treasurer shall, out of the deposits so made with him, as in this subchapter provided, pay said loss and when he shall have done so he shall at once certify to the Board of Insurance Commissioners the fact of such default on the part of said company; whereupon the Board of Insurance Commissioners shall forthwith cancel and annul the certificate of authority of such company to do business in this State. Such payment shall not operate to release the company from payment of any balance which it still may owe after such payment by the Treasurer of this State has been made.

Art. 7.09. Who Are Agents

Any person who solicits business for or on behalf of such company, or makes or transmits, for any person other than himself, any application for guaranty or security, or who advertises or otherwise gives notice that he will receive or transmit same, or who shall receive or transmit same, or who shall receive or deliver a contract of guaranty or security, or who shall examine or investigate the character of any applicant for guaranty or security other than himself, or who shall refer any applicant for guaranty or security to such company, whether any of said acts shall be done at the instance and request, or by the employment of such company or other company or person, or any person who shall issue indemnifying bonds or contracts, whose solvency and compliance with his said bonds or obligations is guaranteed, directly or indirectly, by any such company, shall be held to be the agent of such company so far as relates to all the liabilities and penalties prescribed by this subchapter.

Art. 7.10. Penalty

Any person, association of persons, or corporations, who shall accept any corporation created for the purposes, or either of them, mentioned in the first article of this subchapter without such corporation having previously complied with the provisions and requirements of this subchapter and having received from the Board of Insurance Commissioners the certificate of authority provided for in this subchapter, shall forfeit as a

penalty the sum of Five Hundred (\$500.00) Dollars to be recovered by suit in the name of the State.

Art. 7.11. Cancellation of Bond

When any such company shall cancel a bond of guaranty or indemnity, or shall notify the employer of the person whose fidelity is guaranteed that said company will no longer guarantee or be security for the fidelity of said person, or when said company has once guaranteed the fidelity of any person, or acted as security therefor, and on application refuses to do so again, it shall furnish to such person a full statement in writing of the facts on which the action of the company is based, and if such action be based in whole or in part on information, all such information. Any such company failing or refusing to furnish any such written statement within thirty (30) days after a request therefor shall be liable to such person injured in the sum of Five Hundred (\$500.00) Dollars, in addition to all other damages caused thereby.

Art. 7.12. Authority Revoked, When

If any such company shall fail or refuse to comply with the provisions of this subchapter, the Board of Insurance Commissioners shall revoke its certificate of authority.

Art. 7.13. Charged With Public Use

Corporations created for the purposes mentioned in Article 7.01 of this code are hereby declared to be charged with a public use.

SUBCHAPTER B. TRUST COMPANIES

Art. 7.14. Powers

Any person or association of persons, any State banking corporation or any other domestic corporation, or any corporation organized under the laws of any other State, provided such foreign corporation complies with the laws of this State relating to insurance other than life, may exercise the following powers by complying with the provisions of this subchapter:

1. Qualify as guardian, curator, executor, administrator, assignee, receiver, trustee by appointment of any court or under will, or depository of money in court, without giving bond as such.
2. Become sole guarantor or surety in or upon any bond required to be given under the laws of this State, any other statute to the contrary notwithstanding.

Art. 7.15. Requirements

Those included in the provisions of this subchapter shall:

1. Deposit with the State Treasurer Fifty Thousand (\$50,000.00) Dollars, consisting of cash, treasury notes of the United States, or government, state, county, municipal or other bonds, notes, or debentures, secured by first mortgages or deeds of trust, or mortgages or deeds of trust on unencumbered real estate in Texas worth at least double the amount loaned thereon, or such other first class securities as the Board of Insurance Commissioners may approve. Said bonds or securities shall not be received or held at a rate above par, but if their market value is less than par they shall not be held above their actual market value. The State Treasurer shall require any such depositor to replace any securities so deposited on which the interest shall not be paid within six

(6) months after maturity, by other securities approved by the Board of Insurance Commissioners equal in amount to those removed, upon which the interest has not been defaulted. The funds so deposited shall be primarily liable for the obligations of the depositor in any capacity herein authorized, and shall not be liable for any other debt or obligation of the depositor until all such trust liabilities have been discharged.

2. Satisfy the Board of its solvency. The Board shall issue any such depositor, when satisfied it is solvent and has made the required deposit, a certificate showing such facts.

3. Maintain a premium reserve of the amount required to reinsure all outstanding risks, to be determined by taking fifty (50%) per cent of the premiums of all unexpired risks that have one (1) year or less to run, and a pro rata of all gross premiums on risks that have more than one (1) year to run.

4. File with the Board, within sixty (60) days after the first day of each January, a report sworn to by its president and secretary or by two of its principal officers, as to the surety and bond business done by the same during the preceding year.

5. Pay taxes on its surety and bond business as required of other surety companies.

Art. 7.16. Authority to Act

Whenever any such depositor shall exhibit said certificate to the court, judge, clerk or other officer making the appointment herein authorized, or whose duty it is to approve any bond, such court or officer may appoint such depositor to such office or trust, or permit it to become surety on such bond.

Art. 7.17. Other Trust Powers

Those complying with the provisions of this law shall not exercise any other powers conferred by law upon State banking and trust companies, except those herein authorized, unless such depositor shall have, at the time of making such deposit, a paid up capital or surplus of at least One Hundred Thousand (\$100,000.00) Dollars in addition to said deposit.

Art. 7.18. Statutes Applicable

All articles of the statutes so far as the same are applicable and not inconsistent with the provisions of law governing banks and banking corporations shall apply to all companies doing business hereunder.

CHAPTER EIGHT

GENERAL CASUALTY COMPANIES

Art.

- 8.01. May Incorporate.
- 8.02. Articles of Incorporation.
- 8.03. Organization.
- 8.04. Officers and Records.
- 8.05. Capital and Deposits.
- 8.06. Powers.
- 8.07. Annual Statement.
- 8.08. Additional Information.
- 8.09. Failure of Duty.
- 8.10. Examination.
- 8.11. Revoking Certificate.
- 8.12. Change of Securities.
- 8.13. Increase of Capital.
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- 8.16. Penalty.
- 8.17. Suits for Penalties.
- 8.18. Real Estate.
- 8.19. Sale of Real Estate.
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- 8.21. Fees.
- 8.22. Service of Process.
- 8.23. Decrease of Stock.
- 8.24. Mexican Casualty Insurance Companies; Policies in Force While Insured Persons or Property are in Mexico; Requirements for Issuance in State; Deposit.

Art. 8.01. May Incorporate

Any three or more persons, a majority of whom are residents of this State, may associate in accordance with the provisions of this chapter and form an incorporated company for any one or more of the following purposes:

1. To insure any person against bodily injury, disablement or death resulting from accident and against disablement resulting from disease.
2. To insure against loss or damage resulting from accident to or injury sustained by an employee or other person for which accident or injury the assured is liable.
3. To insure against loss or damage by burglary, theft or house-breaking.
4. To insure glass against breakage.
5. To insure against loss from injury to person or property which results accidentally from steam boilers, elevators, electrical devices, engines and all machinery and appliances used in connection therewith or operated thereby; and to insure boilers, elevators, electrical devices, engines, machinery and appliances.
6. To insure against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers and water pipes.
7. To insure against loss resulting from accidental damage to automobiles or caused accidentally by automobiles.
8. To insure against loss or damages resulting from accident to or injury suffered by any person for which loss and damage the insured is

liable; excepting employers liability insurance as authorized under Sub-division 2 of this article.

9. To insure persons, associations or corporations against loss or damage by reason of giving or extending of credit.

10. To insure against loss or damage on account of circumstances upon, or defects in the title to, real estate, and against loss by reason of the nonpayment of the principal or interest of bonds, mortgages or other evidences of indebtedness.

11. To write marine insurance in which may be included the hazards and perils incident to war.

12. To insure against any other casualty or insurance risk specified in the articles of incorporation which may be lawfully made the subject of insurance, and the formation of a corporation for issuing against which is not otherwise provided for by this article, excepting fire and life insurance.

Art. 8.02. Articles of Incorporation

Such persons shall associate themselves together by written articles of incorporation for the purpose of forming an accident or casualty insurance company, which articles shall specify the general object of the company, and the proposed duration of the same.

Art. 8.03. Organization

When such articles of incorporation are filed with the Board of Insurance Commissioners, together with an affidavit made by two or more of its incorporators, that all the stock has been subscribed in good faith and fully paid for, together with a charter fee of Twenty-five (\$25.00) Dollars, the Board shall record the same in a book kept for that purpose, and upon receipt of a fee of One (\$1.00) Dollar it shall furnish a certified copy of the same to the corporators, upon which they shall be a body politic and corporate, and may proceed to complete the organization of the company, for which purpose they shall forthwith call a meeting of the stockholders who shall adopt by-laws for the government of the company and elect a board of directors composed of stockholders, which board shall have full control and management of the affairs of the corporation, subject to the by-laws thereof as adopted or amended from time to time by the stockholders or directors, and to the laws of this State.

Art. 8.04. Officers and Records

The subscribers to said articles of incorporation shall choose from their number a president, a secretary, a treasurer and such number of directors not less than three who shall continue in office for the period of one year from the date of filing articles of incorporation, and until their successors shall be duly chosen and qualified. They shall open books for the subscriptions of stock in the company at such times and places as they shall deem convenient and proper, and shall keep them open until the full amount specified in the certificate is subscribed.

Art. 8.05. Capital and Deposits

Only companies organized and doing business under the provisions of this chapter shall be subject to its provisions. Except as otherwise provided in Article 2.07 of this code, such company shall have not less than One Hundred Thousand (\$100,000.00) Dollars of capital stock subscribed, paid in, in cash, with an additional Fifty Thousand (\$50,000.00) Dollars of capital stock subscribed and fully paid in, in cash, for every kind of insurance more than one which it is authorized to transact. Such companies with Two Hundred Thousand (\$200,000.00) Dollars of capital

stock subscribed and fully paid in, in cash, shall be authorized to transact all and every kind of insurance specified in the first article of this chapter; all of which capital shall be paid up or invested in bonds of the United States, or of this State, or of any county or municipality of this State, or in notes or bonds secured by mortgage or trust deed insured by the Federal Housing Administrator, or in bonds or first liens upon unincumbered real estate of this State, or in any other state in which such company may previously have been licensed to conduct an insurance business. In either instance, such real estate shall be worth not less than forty (40%) per cent more than the amount loaned thereon. If any part of the value of such real estate is in buildings, such buildings shall be insured against loss by fire for not less than sixty (60%) per cent of the value thereof, with loss-payable clause to the company. The value of such real estate shall be determined by a sworn valuation made by two freeholders of the county where the real estate is situated. Provided that such restrictions shall not apply to mortgages insured by the Federal Housing Administrator. The company may also invest its capital as may be otherwise provided in Article 2.08 of this code. Upon such company furnishing evidence satisfactory to the Board of Insurance Commissioners that the capital stock as herein prescribed has been all subscribed and paid up in cash in good faith, and that such capital stock has been invested as herein prescribed, and upon the deposit of the sum of Fifty Thousand (\$50,000.00) Dollars of such securities or in cash with the State Treasurer, then said Board shall issue to said company a certificate authorizing it to do business.

No part of the capital paid in shall be loaned to any officer of said company.

In the event any such company shall be required by the law of any other state, country, or province as a requirement prior to doing an insurance business therein to deposit with the duly appointed officer of such other state, country, or province, or with the State Treasurer of this State, any securities or cash in excess of the said deposit of Fifty Thousand (\$50,000.00) Dollars hereinbefore mentioned, such company, at its discretion, may deposit with the State Treasurer securities of the character authorized by this law, or cash sufficient to enable it to meet such requirements. The State Treasurer is hereby authorized and directed to receive such deposit and to hold it exclusively for the protection of all policyholders of the company. Any deposits so made to meet the requirements of any other state, country, or province shall not be withdrawn by the company except upon filing with the Board evidence satisfactory to it that the company has withdrawn from business, and has no unsecured liabilities outstanding in any such other state, country, or province by which such additional deposit was required, and upon the filing of such evidence the company may withdraw such additional deposit at any time.

Art. 8.06. Powers

A corporation organized or doing business under the provisions of this law shall, by the name adopted by such corporation, in law, be capable of suing or being sued, and may make or enforce contracts in relation to the business of such corporation; may have and use a common seal, and in the name of the corporation or by a trustee chosen by the board of directors, shall, in law, be capable of taking, purchasing, holding and disposing of real and personal property for carrying into effect the purposes of their organization; and may by their board of directors, trustees, or managers, make by-laws and amendments thereto not inconsistent with the laws or the Constitution of this State or of the United States, which by-laws shall define the manner of electing directors, trus-

tees or managers and officers of such corporation, together with the qualifications and duties of the same and fixing the term of office.

Art. 8.07. Annual Statement

The president, vice president and secretary or a majority of directors or trustees of any such company shall annually, on the first day of January or within sixty (60) days thereafter, prepare and deposit in the office of the Board a verified statement of the condition of such company on the 31st day of December of the preceding year, showing:

1. Name and where located, (a) names of officers, (b) the amount of capital stock, (c) the amount of capital stock paid in.

2. Assets, (a) the value of real estate owned by said company, (b) the amount of cash on hand, (c) the amount of cash deposited in bank or trust company, (d) the amount of bonds of the United States, and all other bonds, giving names and amounts with par and market values of each kind, (e) the amount of loans secured by first mortgage on real estate, (f) the amount of all other bonds, loans and how secured, with rate of interest, (g) the amount of notes given for unpaid stock and how secured, (h) the amount of interest due and unpaid, (i) all other credits or assets.

3. Liabilities, (a) the amount of losses due and unpaid, (b) the amount of claims for losses unadjusted, (c) the amount of claims for losses resisted.

4. Income during the year, (a) the amount of fees received during the year, (b) the amount of interest received from all sources, (c) the amount of receipts from all other sources.

5. Expenditures during the year, (a) the amount paid for losses, (b) the amount of dividends paid to stockholders, (c) the amount of commissions and salaries paid to agents, (d) the amount paid to officers for salaries, (e) the amount paid for taxes, (f) the amount of all other payments or expenditures.

6. Miscellaneous, (a) the amount paid in fees during the year, (b) the amount paid for losses during the year, (c) the whole amount of insurance issued and in force on the 31st day of December of the previous year.

Art. 8.08. Additional Information

The Board is authorized to amend the form of statement and to exact such additional information as it may think necessary in order that a full exhibit of the standing of such companies may be shown.

Art. 8.09. Failure of Duty

Upon the failure of any company to make such deposit or to file the statement in time, the Board shall notify such company to issue no new insurance until the law is complied with, and it shall be unlawful for any such company to thereafter issue any policy of insurance until such requirements shall be complied with.

Art. 8.10. Examination

The Chairman of the Board may at any time make or authorize any suitable person to make a personal examination of the books, papers and securities of any such company. For the purpose of securing a full and true exhibit of its affairs, he or the person selected by him shall have power to examine under oath any officer of said company relative to its business management.

Art. 8.11. Revoking Certificate

If the Board shall at any time from the report of examination determine that such company has not complied with any provision of this law, said Board shall revoke its certificate of authority to do business in this State, and shall refer the facts to the Attorney General, who shall proceed to ask the proper court to appoint a receiver for said company, who shall, under the direction of the court, wind up the affairs of said company. In no other way can the Board or any other person restrain or interfere with the prosecution of business of any company doing business under the provisions of this chapter, except in actions by judgment creditor or in proceedings supplementary to execution.

Art. 8.12. Change of Securities

Such companies shall have the right at any time to change their securities on deposit with the State Treasurer by substituting for those withdrawn a like amount in other securities of the character provided for in this law.

Art. 8.13. Increase of Capital

Any such company may increase its capital stock at any time after the intention to so increase the capital stock shall have been ratified by a two-thirds vote of the stockholders, and after notice of the purpose to so increase the capital stock has been given by publication in some newspaper of general circulation for four (4) consecutive weeks. No increase of capital stock in less amount than Fifty Thousand (\$50,000.00) Dollars is hereby authorized.

Art. 8.14. Dividends

The directors of any such company shall not make any dividends except from the surplus profit arising from their business. No dividend shall be declared except at the close of the year.

Art. 8.15. Interest on Deposits

The State Treasurer shall permit companies having securities on deposit with him under the provisions of this law to collect the interest as the same may become due, and shall deliver to such companies, respectively, the coupons or other evidences of interest pertaining to such deposits. Upon failure of any company to deposit additional security as called for by the Board, or pending any proceedings to close up or enjoin it, the State Treasurer shall collect the interest as it becomes due and hold the same as additional security in his hands belonging to such company.

Art. 8.16. Penalty

Any such company organized or doing business under this code without a certificate as provided for in this chapter shall forfeit One Hundred (\$100.00) Dollars for every day it continues to write new business in this State without such certificate.

Art. 8.17. Suits for Penalties

Suits to recover any penalty provided for in this chapter shall be instituted in the name of the State of Texas, by the Attorney General or by a district or county attorney under his direction, either in the county where the principal office is situated, or in Travis County, Texas. Such penalties, when recovered, shall be paid into the State Treasury for the use of the school fund.

Art. 8.18. Real Estate

No such company shall be permitted to purchase, hold or convey real estate, except for the purpose and in the manner herein set forth:

1. For the erection and maintenance of buildings at least ample and adequate for the transaction of its own business.
2. Such as shall have been mortgaged to it in good faith for money due.
3. Such as shall have been conveyed to it in the satisfaction of debts previously contracted in the course of its dealings and which must be taken in by the company on account of the debt secured by such mortgage.
4. Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts. No company incorporated as aforesaid shall purchase, hold or convey real estate in any other cases or for any other purpose.

Art. 8.19. Sale of Real Estate

All real estate so acquired, except as is occupied by buildings used in whole or in part for the accommodation of such companies in the transaction of its business, shall, except as hereinafter provided, be sold and disposed of within ten years after such company shall have acquired title to the same. No such company shall have such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Board that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the Board shall direct in said certificate.

Art. 8.20. Certificate of Authority

The Board upon due proof by a company organized under the provisions of this law, of its possessing the qualifications required, shall issue a certificate setting forth that it has qualified and is authorized for the ensuing year to do business under the law, which certificate or a copy thereof shall be evidence of such qualifications and of such company's authority to transact business authorized by this chapter, and of its solvency and credits.

Art. 8.21. Fees

The Board shall charge for filing the annual statement required by this chapter, a fee of Twenty (\$20.00) Dollars.

Art. 8.22. Service of Process

Process in any civil suit against any such company organized under the laws of this State may be served only on the president, or any active vice president or secretary, or general counsel residing at the city of the home office of the company, or by leaving a copy of same at the home office of such company, during business hours.

Art. 8.23. Decrease of Stock

Any such company may decrease its capital stock at any time after the intention to so decrease the capital stock shall have been ratified by a majority vote of the stockholders, and after notice of such purpose has been published in some newspaper of general circulation for a period of four consecutive weeks.

Art. 8.24. Mexican Casualty Insurance Companies; Policies in Force While Insured Persons or Property Are in Mexico; Requirements for Issuance in State; Deposit

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 deposits 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 pro-

vided, upon suits for any alleged liability incurred in operations of the carrier pursuant to this law, 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 based solely upon its gross premium receipts from insurance policies issued by it in Texas which cover resident citizens of Texas or property or risks principally domiciled or located in this State, as shown by reports made to the Board each year, upon the same percentage rate, and in the same manner, as other licensed insurance carriers in Texas writing accident and casualty coverage. Each such carrier likewise shall pay such other maintenance fees, charges and taxes and upon the same basis as other licensed insurance carriers writing accident and casualty coverage in Texas are required by law to pay; and shall make the same reports as are required of such other insurance carriers, but in such adapted forms as may be prescribed by the Board of Insurance Commissioners 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 article 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 21.14 of this code, 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.

CHAPTER NINE

TITLE INSURANCE COMPANIES

Art.

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Art. 9.01. May Incorporate

Private corporations may be created for the following named purposes:

(1) To compile and own, or to acquire and own, records or abstracts of title to lands and interests in lands; and to insure titles to lands or interests therein, both in Texas and other States of the United States, and indemnify the owners of such lands, or the holders of interests in or liens on such lands, against loss or damage on account of incumbrances upon or defects in the title to such lands or interests therein.

Such corporations may also exercise the following powers by including same in the charter when filed originally, or by amendment:

(2) Make and sell abstract of title in any counties of Texas or other States.

(3) To accumulate and lend money, to purchase, sell or deal in notes, bonds and securities, but without banking privileges.

(4) To act as trustee under any lawful trust committed to it by contract or will, appointment by any court having jurisdiction of the subject matter as trustee, receiver or guardian and as executor or guardian under the terms of any will and as any administrator of the estates of decedents under the appointment of the court.

Art. 9.02. Capital Stock

All corporations created and/or operating under the provisions of this chapter must have a paid up capital of not less than One Hundred Thou-

sand (\$100,000.00) Dollars. Any corporation organized under this chapter having the right to do a title insurance business may invest as much as fifty (50%) per cent, of its capital stock in an abstract plant or plants, provided the valuation to be placed upon such plant or plants shall be approved by the Board of Insurance Commissioners; provided, however, that if such corporation is not doing a trust business as provided in subdivision 4, Article 9.01 of this chapter, and maintains with the Board the deposit of One Hundred Thousand (\$100,000.00) Dollars, in securities as provided in Article 9.07 of this chapter, such of its capital in excess of fifty (50%) per cent, as deemed necessary to its business by its board of directors may be invested in abstract plants; and provided further that no such corporation may hereafter acquire more than one abstract plant in any one county and shall not hereafter acquire any plant in any county in this State having a population of less than ninety thousand (90,000) according to the last preceding Federal Census.

Art. 9.03. Policy Forms and Premiums

Corporations organized under this chapter, as well as foreign corporations and those created under Subdivision 57, Article 1302, of the Revised Statutes of 1925, or under Chapter 8 of this Code, or any other law in so far as the business of either may be a title insurance business, shall operate in Texas under the control and supervision and under such uniform rules and regulations as to forms of policies and underwriting contracts and premiums therefor, as may be from time to time prescribed by the Board; and no Texas or foreign corporation, whether incorporated under this chapter or any other law of the State of Texas, shall be permitted to issue any title policy or mortgage certificate or underwriting contract on Texas property other than under this chapter and under such rules and regulations. No policy of title insurance or guarantee of any character on Texas titles shall be issued or valid unless written by a corporation complying with all provisions of and authorized or qualified under this chapter. Before any rate provided for herein shall be fixed or changed, reasonable notice shall issue, and a hearing afforded to the companies affected by this chapter. Every company doing business under this chapter shall file with the Board the form of guarantee certificate, mortgage policy or any policy of title insurance before the same shall be issued, and the form must be approved by the Board, and be uniform as to all companies. Under no circumstances may any company use any form until after the same shall have been approved by the Board.

The Board shall have the right and it shall be its duty to fix and promulgate the rates to be charged by corporations created or operating under this chapter for premiums on policies or certificates and underwriting contracts. The rate fixed by the Board shall be reasonable to the public and non-confiscatory as to the company. For the purpose of collecting data on which to determine the proper rates to be fixed, the Board shall have the right to require the companies operating in Texas to submit such information in such form as it may deem proper, all information as to loss experience, expense of operation, and other material matter for its consideration.

Rates when once fixed shall not be changed until after a public hearing shall be had by the Board, after proper notice sent direct to all companies interested in writing this business, and after public notice in such manner as to give fair publicity thereto for two (2) weeks in advance. The Board must call such hearing to consider rate changes at the request of a company writing title insurance, or if the Board thinks that a change in rates may be proper. Any company or other person interested, feeling injured by any action of the Board with regard to rates, shall have the

right to file a suit in the District Court of Travis County, within thirty (30) days after the Board has made such order, to review the action, in which suit the court may enter a judgment correcting the Board's order and fixing such rates as may be proper, or affirming the action of the Board. Under no circumstances shall any rate of premium be charged for policies or underwriting contracts different from those fixed and promulgated by the Board, or those fixed in a final judgment of the court as herein provided.

Art. 9.04. Prohibiting Guarantee of Mortgage Loan Payments

Corporations, domestic or foreign, operating under this chapter shall not have the right to guarantee the payment of mortgages which cover real estate in Texas, and if any such corporation shall do so it shall forthwith forfeit and surrender its permit to do business.

Art. 9.05. Foreign Corporations

Corporations organized under the laws of any other state shall be permitted to do business in this State on exactly the same basis and subject to the same rules, regulations and prices and supervision as fixed for Texas corporations doing business under this chapter.

Art. 9.06. Revocation of License

Any foreign or domestic corporation issuing any form of policy or underwriting contracts or charging any premium rates to the public on either owners' or mortgagee's certificates or underwriting contracts on Texas properties other than forms and rates prescribed by the Board, under the provisions of this chapter, shall forfeit its right to do business in Texas; but this shall not be construed as intended to require the charge made by one title insurance company, qualified to do business under this chapter and doing a general title insurance business for the public in this State, for reinsuring or underwriting all or any part of the business of another such company, to be the same as the charge to the public.

Art. 9.07. Deposits

All corporations, domestic and foreign, writing title or mortgagee policies or underwriting contracts must at all times have and keep on deposit with the State Treasury or such other depository as may be named by such corporation and approved by the Board, either cash or first mortgage notes or such other securities as are now admissible for investment by life insurance companies under the laws of this State, to an amount equal to one-fourth ($\frac{1}{4}$) of the authorized capital of such corporation; provided, however, that such deposit shall in no event exceed the sum of One Hundred Thousand (\$100,000.00) Dollars.

Art. 9.08. Fees

The General Laws applicable to payment of filing fees of corporations having a capital stock are hereby made applicable to corporations coming under the provisions of this chapter.

Art. 9.09. Charter and Amendments

The charter of corporations incorporated under the provisions of this chapter, and the amendments thereto, shall be filed with the Board, and the Board shall collect from the said companies filing fees required under the law.

Art. 9.10. Certificate of Authority

The Board after having satisfied itself by such investigation as it may deem proper with reference to the payment of capital stock and the value of the assets offered in payment thereof (the expense of which examination shall be borne by the company), shall issue to such company a certificate of authority to transact the characters of business provided for in this chapter, which said certificate shall expire on the first of June next succeeding. Thereafter, on or before the first of June and after the filing of the annual report required under this chapter of each company, the Board, upon being satisfied that the laws applicable to such companies have been complied with, shall issue a certificate of authority to said company to conduct such business until June first of the ensuing year. No company, domestic or foreign, shall transact business under this chapter unless it shall hold a valid certificate of authority.

Art. 9.11. Reserve

Every company doing a title insurance business under the provisions of this chapter shall set aside annually as a reserve five (5%) per cent of its gross premiums so collected, before any dividends are paid, the totals of such reserve shall never be required to exceed a total reserve of One Hundred Thousand (\$100,000.00) Dollars. Such reserve must be maintained separately and apart from the capital of the company, and shall be invested in such securities as are admissible for investment by life insurance companies under the laws of this State. Funds accumulated under this provision shall never be used for the payment of any obligation other than those connected with title insurance, and, in the event of the insolvency of a company, the fund hereby provided shall be used to protect title insurance policyholders even though there be no accrued title insurance claims and even though there be unpaid obligations of other sorts.

Art. 9.12. Maximum Liability

No company operating under the provisions of this chapter shall issue any policy of title insurance involving a contingent liability on said policy of more than fifty (50%) per cent of the capital stock and surplus of the company, unless the excess shall be simultaneously reinsured in some other responsible company qualified to do business in Texas. Such company may reinsure any or all of its business provided the reinsuring company shall be qualified to do business in Texas and the reinsurance contract shall be first approved by the Board.

Art. 9.13. Capital Stock Impairment

The capital stock of every company operating under the provisions of this chapter must be maintained intact over and above all of its outstanding liabilities, except contingent liabilities on policies of title insurance, and if such company shall permit the impairment of its capital stock, it shall not transact any further business of any sort until such time as it shall have made good its impairment and received permission of the Board to resume operations.

If such impairment shall be permitted to remain for a period of time up to six (6) months, the Board shall immediately require the reinsurance of the outstanding policy or policies of any such concern and a liquidation of its assets and the winding up of its business.

Art. 9.14. Authority of Board of Insurance Commissioners

If any company operating under the provisions of this chapter shall engage in the characters of business described in subdivisions (2) and (3)

of Article 9.01 of this chapter, in such manner as might bring it within the provision of any other regulatory statute now or hereafter to be in force within the State of Texas, all examination and regulation shall be exercised by the Board rather than any other State agency which may be named in such other laws, so long as such corporation engages in the title guaranty or insurance business.

Art. 9.15. Annual Statement; Examination

Every company, domestic and/or foreign, operating under the provisions of this chapter shall, upon or before the first of March each year, file with the Board a verified statement, in such form as the Board may require, setting forth the statement of the business done by it during the preceding year, and the condition of its affairs as of December 31st preceding. It shall be the duty of the Board, biennially or oftener, if it shall be deemed advisable, in person or through a duly appointed representative, to make a thorough examination of the company's books and affairs and the transactions in which it is engaged at the expense of said company, for which purpose the Board or its representatives shall have access to the books and records of the said company and shall have the right to interrogate and require answer under oath from any officer, agent or employee of the said company concerning any matters pertaining to the business thereof.

Art. 9.16. Regulating of Names

Corporations chartered or operating under the provisions of this chapter may use in their corporate name the words "Title and Trust Company," but they shall not use the word "Trust" alone, and where the word "Trust" appears, then in letter-heads and literature used by them, they shall print the words "Without Banking Privileges."

Art. 9.17. Foreign Corporations; Permits

Any foreign corporations desiring to transact the character of business provided for in this chapter in this State shall make an application for permit or certificate of authority to the Board in such form as the Board shall prescribe and shall submit a financial statement showing its condition in such form as the Board shall prescribe.

Art. 9.18. Capital Required; Foreign Corporations

No such foreign corporation shall be permitted to do business in this State unless it shall show from its financial statement, and such other examination as the Board may desire to make, an unimpaired capital of at least One Hundred Thousand (\$100,000.00) Dollars.

Art. 9.19. Power of Attorney

Each such foreign corporation engaged in doing or desiring to do business in this State shall file with the Board an irrevocable power of attorney, duly executed, constituting and appointing the Chairman of the Board and his successors in office, or any officer or board which may hereafter be clothed with the powers and duties now devolving upon said Chairman of the Board, its duly authorized agent and attorney in fact for the purpose of accepting service for it or being served with citation in any suit brought against it in any court of this State, by any person, or by or to or for the use of the State of Texas, and consenting that the service of any civil process upon him as its attorney for such purpose in any suit or proceeding shall be taken and held to be valid, waiving all claim and right to object to such service, and such appointment, agency

and power of attorney shall, by its terms and recitals, provide that it shall continue and remain in force and effect so long as such company continues to do business in this State or to collect premiums of insurance from citizens of this State, and so long as it shall have outstanding policies in this State, and until all claims of every character held by the citizens of this State, or by the State of Texas, against such company, shall have been settled. Said power of attorney shall be signed by the president or by a vice president and the secretary of such company, whose signature shall be attested by the seal of the company; and said officer signing the same acknowledge its execution before an officer authorized by the laws of this State to take acknowledgments. The said power of attorney shall be embodied in, and approved by, a resolution of the board of directors of such company, and a copy of such resolution duly certified to by the proper officer of said company, shall be filed with the said power of attorney in the office of the Chairman of the Board and shall be recorded by him in a book kept for that purpose, there to remain a permanent record of the Board.

Art. 9.20. Service of Process

Whenever the Chairman of the Board shall accept service or be served with citation in any suit pending against any title insurance company in this State, he shall immediately enclose the copy of the citation served upon him, or a substantial copy thereof, in a letter properly addressed to the general manager or general agent of the company against whom such service is had, if it shall have a general manager or general agent within this State, and, if not, then to the home office of the company, and shall forward the same by registered mail, postage prepaid. No judgment by default shall be taken in any such cause until after the expiration of at least ten (10) days after the general agent or general manager of such company, or the company at its home office, as the case may be, shall have received such copy of such citation; and the presumption shall obtain, until rebutted, that such notice was received by such agent or company in due course of mail after being deposited in the mail in Austin, Texas.

Art. 9.21. Authority Revoked; When

If any corporation, domestic or foreign, while holding a certificate of authority to transact business in this State, shall fail or refuse to comply with any of the provisions or requirements of this chapter, the Board, upon ascertaining this fact, shall notify such company by actual notice in writing delivered to an executive officer of such company, of his intention to revoke its certificate of authority to transact business in this State at the expiration of thirty (30) days after the mailing of such registered letter, or the date upon which such actual notice is served. If such provisions or requirements are not fully complied with upon the expiration of said thirty (30) days, it shall be the duty of the Board to revoke the certificate of authority of such company. In case of such revocation, such company shall not be entitled to receive another certificate of authority for a period of one (1) year, and until it shall have fully and in good faith complied with all such provisions and requirements of this chapter. Any company feeling itself aggrieved by the action of the Board in revoking its certificate of authority to do business in this State may bring suit against it in Travis County, Texas to annul and vacate the order revoking such certificate.

Art. 9.22. Rebates and Discounts

No commissions, rebates, discounts, or other device shall be paid, allowed or permitted by any company, domestic or foreign, doing the busi-

ness provided for in this chapter, relating to title policies or underwriting contracts; provided this shall not prevent any title company from appointing as its representative in any county any person, firm or corporation owning and operating an abstract plant in such county and making such arrangements for division of premiums as may be approved by the Board.

Art. 9.23. Fees and Occupation Tax on Foreign Corporations

Any corporation organized and incorporated under the laws of any other state, territory or country for the purpose of transacting a title insurance or title guaranty business shall be required to pay the same filing fees and occupation tax as any foreign casualty company is required to pay in order to procure a permit to do business in Texas. Such foreign title companies will not be required to pay a franchise tax.

Art. 9.24. Prohibiting Further Chartering of Corporations Under Art. 1302

No corporation shall be chartered under Subdivision 57, Article 1302, Revised Statutes of Texas 1925, but all corporations heretofore incorporated and now doing business in Texas shall be permitted to continue in business and shall be subject to all the provisions of this chapter, and such companies shall be required to comply with the requirements of this chapter with reference to investments and deposits.

Stockholders in a company acting under this chapter shall not be liable in the event of default in the payment of any debt or liability of such company beyond their subscription for such stock unless such company shall have charter power to do a trust and fiduciary business under Subdivisions 3 and 4 hereof of Article 9.01 of this chapter; in which later event if default shall be made in the payment of any debt or liability contracted by such company each stockholder of such corporation, as long as he owns shares therein and for twelve (12) months after the date of the transfer thereof shall be personally liable for all debts of such corporation, existing at the date of such transfer, or at the date of such default to an additional amount equal to the par value of such shares.

Art. 9.25. To Cancel License

The terms and provisions of this chapter are conditions upon which corporations doing the business provided for in this chapter may continue to exist, and failure to comply with any of them or a violation of any of the terms of this chapter shall be proper cause for revocation of the permit and forfeiture of charter of a domestic corporation or the permit of a foreign corporation.

Art. 9.26. Maintenance Tax on Gross Premiums; Disposition of Unexpended Balance

To defray the expense of carrying out the provisions of this chapter, the State of Texas shall assess and collect not exceeding an additional one (1%) per cent of the gross premiums collected by every insurer on all title insurance premiums according to the reports made to the Board as required by law. Said taxes when collected shall be deposited with the State Treasurer to the credit of a special fund to be designated as the Title Insurance Fund, which fund shall be kept separate and apart from all other funds and moneys in his hands, to be used for the sole purpose of administering the provisions of this chapter; and to be expended only on warrants issued by the Comptroller upon vouchers drawn by the Board, such vouchers to be accompanied by itemized sworn statements of the expenditures, and to be in addition to all taxes now imposed, or which

may hereafter be imposed, not in conflict with this article. Should there be an un-expended balance at the end of any year in said fund, the Board shall reduce the assessment for the succeeding year so that the amount produced and paid into the Treasury will not exceed the amount necessary for the current year to pay all expenses of maintaining the division of the Board administering the provisions of this chapter.

Art. 9.27. Exception

Unless title insurance companies or the business of title insurance is expressly mentioned, no provision of this code, except as contained in this chapter, shall be applicable to corporations incorporated or doing business exclusively under this chapter, or to the title insurance business conducted by corporations created under subdivision 57, Article 1302 of the Revised Statutes of 1925, or under Chapter 8 of this code, or under any other law, and no law hereafter enacted shall apply to such title insurance companies or to such title insurance business unless such subsequent enactment expressly states that it shall so apply.

CHAPTER TEN

FRATERNAL BENEFIT SOCIETIES

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Art. 10.01. Fraternal Benefit Society

Any corporation, society, order of voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system and representative form of government, or which limits its membership to a secret fraternity having a lodge system and representative form of government, and which shall make provision for the payment of benefits in accordance with Article 10.05 is hereby declared to be a fraternal benefit society.

Art. 10.02. Lodge System Defined

Any society having a supreme governing or legislative body and subordinate lodges or branches by whatever name known into which members shall be admitted in accordance with its constitution, laws, ritual, rules and regulations, and which shall be required by the laws of such society to hold periodical meetings, shall be deemed to be operating on the lodge system.

Art. 10.03. Representative Form of Government Defined

Any society shall be deemed to have a representative form of government when it shall provide in its constitution and laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and laws; provided, that the elective members shall constitute a majority in number and not less than the number of votes required to amend its constitution and laws; and provided, further, that the meetings of the supreme or governing body, and the election of officers, representatives or delegates shall be held as often as once in four calendar years. No member under age sixteen shall have voice or vote in the management of the society. No member, officer, representative or delegate shall vote by proxy.

Art. 10.04. Exemptions

Except as herein provided, such societies shall be governed by this chapter and shall be exempt from all provisions of the insurance laws of this State, not only in governmental relations with the State, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein.

Art. 10.05. Benefits

Section 1. Every society transacting business under this chapter shall provide for the payments of benefits upon the death of its members either within a term of years or at any time, and may provide for benefits payable upon its members reaching seventy (70) years of age, and may also provide, for the payment of benefits in case of total and permanent disability, and may provide also for the payment of benefits in the event of temporary disability and for monuments or tombstones to the memory of its deceased members, and for the payment of funeral benefits.

Section 2. Any society may also enter into contracts in such other forms and granting such benefits as its laws may authorize when it shall provide for the accumulation and maintenance of assets required for the payment of such benefits when valued upon an interest basis not exceeding four (4%) per cent per annum and mortality standards adopted by it within the limitations provided in the statutes relating to fraternal benefit societies, or at the option of the society in the statutes relating to life insurance companies.

Art. 10.06. Benefits Upon Life of Child

Any fraternal benefit society authorized to do business in this State may provide in its laws, in addition to other benefits provided for therein, for insurance, annuities, or for insurance and annuities, upon the lives of children at any age, upon the application of some adult person related to or interested in said child as the laws of such society may provide. Any such society may at its option organize and operate branches for such children and membership in local lodges, and initiation therein shall not

be required of such children, nor shall they have any voice in the management of the society.

Art. 10.07. Contributions on Certificates; How Based

The contributions to be made upon such certificate shall be based upon the "Standard Industrial Mortality Table Three and One-half Per Cent," or the "English Life Table Number Six," or such other mortality table as may be approved by the Chairman of Board of Insurance Commissioners.

Art. 10.08. Reserve

Any society issuing such benefit certificates shall maintain on all such certificates the reserve required by the standard mortality and interest tables adopted by the society for computing contributions, same to be first approved by the Chairman of the Board of Insurance Commissioners.

Art. 10.09. Enforcing Payment of Contributions and Control of Certificates

Any society shall have the full power to provide for means of enforcing payment of contributions, designations, and in all other respects for the regulation, government and control of such certificate and all rights, obligations and liabilities incident thereto and connected herewith not at variance with the provisions of this chapter.

Art. 10.10. Specified Payments

Any society shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense or general fund, which payments shall or shall not be mingled with the general fund of the society as its constitution and by-laws may provide.

Art. 10.11. Child Membership

In the event of the termination of membership in the society by the person responsible for the support of any child, on whose account a certificate may have been issued, as provided herein, the certificate may be continued for the benefit of the estate of the child, provided, the contributions are continued, or for the benefit of any other person responsible for the support and maintenance of such child, who shall assume the payment of the required contributions.

Art. 10.12. Members and Beneficiaries

Any person may be admitted to beneficial, or general, or social membership in any society in such manner and upon such showing of eligibility as the laws of the society may provide, and any beneficial member may direct any benefit to be paid to such person or persons, entity, or interest as may be permitted by the laws of the society; provided, that no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable in conformity with the provisions of the contract of membership, and the member shall have full right to change his beneficiary, or beneficiaries, in accordance with the laws, rules, and regulations of the society.

Nothing contained in this chapter shall be construed to affect or apply to societies which admit to membership only persons engaged in one or more hazardous occupations, in the same or similar lines of business.

Art. 10.13. Liability for Damages and Attorney's Fees

In all cases where a loss occurs and the fraternal benefit society liable therefor shall fail to pay the same within sixty (60) days after the de-

mand therefor, such society shall be liable to pay the holder of such policy, in addition to the amount of the loss, twelve (12%) per cent damages on the amount of such loss together with reasonable attorney's fees for the prosecution and collection of such loss.

Art. 10.14. Organization as Beneficiary

Fraternal benefit societies, heretofore or hereafter incorporated by the State of Texas or licensed to do business therein, shall be authorized to provide in their constitutions, by-laws or fundamental laws for the issuance of benefit certificates to their members, wherein any association, society or corporation, organized and operated for religious, eleemosynary or educational purposes, may be named as beneficiary.

Art. 10.15. Certificate

Every certificate issued by any such society shall specify the amount of benefit provided thereby, and shall provide that the certificate, the charter or articles of incorporation, or, if a voluntary association, the articles of association, the constitution and laws of the society, and the application for membership and medical examination, signed by the applicant, and all amendments to each thereof, shall constitute the agreement between the society and the member, and copies of the same, certified by the secretary of the society, or corresponding officer, shall be received in evidence of the terms and conditions thereof. Any changes, additions or amendments to said charter or articles of incorporation, or articles of association, or constitution or laws duly made or enacted subsequent to the issuance of the benefit certificates shall bind the member and his beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership.

Art. 10.16. Funds

Any society may create, maintain, invest, disburse and apply an emergency surplus or other similar fund in accordance with its laws. Unless otherwise provided in the contract, such funds shall be held, invested and disbursed for the use and benefit of the society, and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment of the surrender of any part thereof, except as provided in Article 10.05 of this chapter. The funds from which benefits shall be paid and the funds from which the expenses of the society shall be defrayed shall be derived from periodical or other payments by the members of the society and accretions of said funds. No society, domestic or foreign, shall hereafter be incorporated or admitted to transact business in this State which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted, when valued upon the basis of the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress, August 23, 1899, or any higher standard with interest assumption not more than four (4%) per cent per annum, nor write or accept members for temporary or permanent disability benefits except upon tables based upon reliable experience, with an interest assumption not higher than four (4%) per cent per annum. Deferred payments or installments of claims shall be considered as fixed liabilities on the happenings of the contingency upon which such payments or installments are thereafter to be paid. Such liability shall be the present value of such future payments or installments upon the rate of interest and mortality assumed by the society for valuation, and every society shall maintain a fund sufficient

to meet such liability regardless of proposed future collections to meet any such liabilities.

Art. 10.17. Investments

Every society shall invest its funds only in securities permitted by the laws of this State for the investment of the assets of life insurance companies. Any foreign society permitted or seeking to do business in this State which invest funds in accordance with the laws of the state in which it is incorporated shall be held to meet the requirements of this chapter for the investment of funds. In case the Constitution and by-laws of the Grand Lodge or governing body of any such association provides that all or any part of the beneficiary or mortuary or insurance fund of such association that is paid in by or collected from the members of such subordinate or local lodge may be retained in the custody of and controlled and managed by such subordinate or local lodge, and designate what officer of such subordinate or local lodge shall have the custody and control of such fund and authorize such local officers to loan or invest the same, and such local officer shall have executed and filed, and shall from time to time when required by the Board of Insurance Commissioners, file with the Board such bond or other written instrument to be prescribed and approved in terms and amount by such Board as will indemnify such fund against waste, depletion or loss through loans, investment or otherwise, then such fund so secured shall be exempt from the provisions of this chapter.

Art. 10.18. Distribution of Funds

Every provision of the laws of the society for payment by members of such society, in whatever form made, shall distinctly state the purpose of the same and the proportion thereof which may be used for expenses. No part of the money collected for mortuary or disability purposes or the net accretions of either or any of said funds shall be used for expense.

Art. 10.19. Organization

Seven or more persons, citizens of the United States, and a majority of whom are citizens of this State, who desire to form a fraternal benefit society, as defined by this chapter, may make and sign, giving their addresses, and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

1. The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company already transacting business in this State as to mislead the public or to lead to confusion.

2. The purpose for which it is formed, which shall not include more liberal powers than are granted by this chapter. Any lawful, social, intellectual, educational, charitable, benevolent, moral or religious advantages may be set forth among the purposes of the society, and the mode in which its corporate powers are to be exercised.

3. The names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate.

4. Such articles of incorporation and duly certified copies of the Constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor and circulars to be

issued by such society, and a bond in the sum of Five Thousand (\$5,000.00) Dollars, with sureties approved by the Board of Insurance Commissioners, conditioned upon the return of the advance payments, as provided in this article, to applicants, if the organization is not completed within one (1) year, shall be filed with such Board who may require such further information as it deems necessary, and if the purposes of the society conform to the requirements of this law, and all provisions of law have been complied with, said Board shall so certify and retain and record or file the articles of incorporation, and furnish the incorporators a preliminary certificate authorizing said society to solicit members as hereinafter provided.

Upon receipt of said certificate from the Board of Insurance Commissioners, said society may solicit members for the purpose of completing its organization and shall collect from each applicant the amount of not less than one (1) regular monthly payment, in accordance with its Table of Rates as provided by its Constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No such society shall incur any liability other than for such advanced payments, nor issue any benefit certificate nor pay or allow, or offer or promise to pay or allow, to any person any death or disability benefit until actual bona fide applications for death benefit certificates have been secured upon at least five hundred (500) lives for at least One Thousand (\$1,000.00) Dollars each, and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians, and certificates of such examination have been duly filed and approved by the chief medical examiner of such society; nor until there shall be established ten (10) subordinate lodges or branches into which said five hundred (500) applicants have been initiated; nor until there has been submitted to said Board, under oath of the president and secretary or corresponding officers of such society, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of stated periodical contributions, which shall be sufficient to provide for meeting the mortuary obligation contracted, when valued for death benefits upon the basis of the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress, August 23, 1899, or any higher standard, at the option of the society, and for disability benefits by tables based upon reliable experience and for combined death and permanent total disability benefits by tables based upon reliable experience, with an interest assumption not higher than four (4%) per cent per annum; nor until it shall be shown to the Board by the sworn statement of the treasurer or corresponding officer of such society, that at least five hundred (500) applicants have each paid in cash at least one (1) regular monthly payment as herein provided per One Thousand (\$1,000.00) Dollars of indemnity to be effected, which payments in the aggregate shall amount to at least Twenty-five Hundred (\$2,500.00) Dollars; all of which shall be credited to the mortuary or disability fund on account of such applicants and no part of which may be used for expenses.

Said advanced payments shall, during the period of organization, be held in trust, and if the organization is not completed within one (1) year as hereinafter provided, returned to said applicants.

The Board may make such examination and require such further information as it deems advisable; and upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the Board shall issue to such society a certificate to that effect. Such certificate shall be prima facie evidence of the existence of such society at the

date of such certificate. The Board shall cause a record of such certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate.

No preliminary certificate granted under the provisions of this article shall be valid after one (1) year from its date, or after such further period, not exceeding one (1) year, as may be authorized by the Board of Insurance Commissioners upon cause shown; unless the five hundred (500) applicants herein required have been secured and the organization has been completed as herein provided; and the articles of incorporation and all proceedings thereunder shall become null and void in one (1) year after the date of said preliminary certificate, or at the expiration of said extended period, unless such society has completed its organization and commenced business as herein provided. When any domestic society shall have discontinued business for the period of one (1) year, or has less than four hundred (400) members, its charter shall become null and void. Every such society shall have the power to make a Constitution and by-laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of contribution of its members from time to time; and it shall have the power to change, alter, add to, or amend such Constitution and by-laws and shall have such other powers as are necessary and incidental to carrying into effect its object and purposes.

Art. 10.20. Powers Retained; Amendments

Any society now engaged in transacting business in this State may exercise all of the rights conferred hereby, and all of the rights, powers and privileges now exercised or possessed by it under its charter or articles of incorporation not inconsistent with this chapter, if incorporated; or if it be a voluntary association, it may incorporate hereunder. But no society already organized shall be required to reincorporate hereunder, and any such society may amend its articles of incorporation from time to time in the manner provided therein or in its Constitution and laws, and all such amendments shall be filed with the Board and shall become operative upon such filing, unless a later time be provided in such amendments or in its articles of incorporation, Constitution or laws.

Art. 10.21. Mergers and Transfers

No domestic society shall merge with or accept the transfer of the membership or funds of any other society unless such merger or transfer is evidenced by a contract in writing, setting out in full the terms and conditions of such merger or transfer, and filed with the Board of Insurance Commissioners, together with a sworn statement of the financial condition of each of said societies by its president and secretary, or corresponding officers, and a certificate of such officers, duly verified under oath of said officers of each of the contracting societies, that such merger or transfer has been approved by a vote of two-thirds ($\frac{2}{3}$) of the members of the supreme legislative or governing body of each of said societies.

Upon the submission of said contract, financial statements and certificates, said Board shall examine the same, and if it shall find such statements to be correct and the said contract to be in conformity with the provisions of this article, and that such merger or transfer is just and equitable to the members of each of said societies, the Board shall approve said merger or transfer, issue its certificate to that effect, and thereupon the said contract or merger or transfer shall be of full force and effect. In case such contract is not approved, the fact of its submission and its contents shall not be disclosed by said Board.

Art. 10.22. Annual License

Societies which are now authorized to transact business in this State may continue such business until their present licenses expire and the authority of such societies may thereafter be renewed annually for a period of not more than fifteen (15) months, and not extending more than ninety (90) days beyond the last day of February next after the date of its issuance. The license shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the society shall pay the Board of Insurance Commissioners Ten (\$10.00) Dollars. A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

Art. 10.23. Admission of Foreign Society

No foreign society now transacting business, organized prior to the passage of this law, which is not now authorized to transact business in this State, shall transact any business herein without a license from the Board of Insurance Commissioners. Any such society shall be entitled to a license to transact business within this State upon filing with said Board a duly certified copy of its charter or articles of association; a copy of its Constitution and laws, certified by its secretary or corresponding officer; a power of attorney to the Chairman of the Board as hereinafter provided; a statement of its business under oath of its president and secretary or corresponding officers in the form required by said Board of Insurance Commissioners, duly verified by an examination made by the supervising insurance official of its home state or other state satisfactory to the Board of Insurance Commissioners; a certificate from the proper official in its home state, province or country that the society is legally organized; a copy of its contract, which must show that benefits are provided for by periodical or other payments by persons holding similar contracts; and upon furnishing the Board such other information as it may deem necessary to a proper exhibit of its business and plan of working, and upon showing that its assets are invested in accordance with the laws of the state, territory, district, province or country where it is organized, said Board shall issue a license to such society to do business in this State 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, and such license shall, upon compliance with the provisions of this chapter, be renewed annually. The license shall continue in full force and effect until the new license be issued or specifically refused. Any foreign society desiring admission to this State shall have the qualifications required of domestic societies organized under this chapter and have its assets invested as required by the laws of the state, territory, district, country or province where it is organized. For each such license or renewal the Society shall pay the Board of Insurance Commissioners Ten (\$10.00) Dollars. When said Board refuses to license any society or revokes its authority to do business in this State, the Board shall reduce its decision to writing and file the same in its office, and shall furnish a copy thereof, together with a statement of its reasons, to the officers of the society, upon request, and the action of said Board of Insurance Commissioners shall be reviewable by proper proceedings in any court of competent jurisdiction within the State. Nothing in this or the preceding article shall be construed as preventing any such society from continuing in good faith all contracts made in this State during the time such society was legally authorized to transact business herein.

Art. 10.24. Service of Process

Every society, whether domestic or foreign, hereafter applying for admission, shall before being licensed, appoint in writing the Chairman of the Board of Insurance Commissioners and his successors in office to be its true and lawful attorney upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served upon such attorney shall be of the same legal force and validity as if served upon the society and that the authority shall continue in force so long as any liability remains outstanding in this State.

Copies of such appointment certified by said Chairman of the Board shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service shall only be made upon such attorney, must be made in duplicate upon said Chairman of the Board, or, in his absence, upon the person in charge of his office, and shall be deemed sufficient service upon such society. No such service shall be valid or binding against any such society when it is required thereunder to file its answer, pleading or defense in less than thirty (30) days from the date of mailing the copy of such service to such society. When legal process against any such society is served upon said Chairman of the Board he shall forthwith forward by registered mail, one of the duplicate copies prepaid and directed to its secretary or corresponding officer. Legal process shall not be served upon any such society except in the manner provided herein.

Art. 10.25. Place of Meeting

Each domestic society shall have its principal office in this State, but may provide that the meetings of its legislative or governing body may be held in any state, district, province or territory wherein such society has subordinate branches. All business transacted at such meetings shall be as valid in all respects as if such meetings were held in this State.

Art. 10.26. No Personal Liability

Officers and members of the supreme, grand or any subordinate body of any such incorporated society shall not be individually liable for the payment of any disability or death benefit provided for in the laws and agreements of such society. The same shall be payable only out of the funds of such society and in the manner provided by its law.

Art. 10.27. Waiving Provisions of Law

The constitution and laws of the society may provide that no subordinate body nor any of its subordinate officers or members shall have the power or authority to waive any provision of the laws and Constitution of the society, and the same shall be binding on the society and each and every member thereof and on all beneficiaries of members. All grand lodges, by whatever name known, whether incorporated or not, holding charters from any supreme governing body, which were conducting business in this State upon the passage of this law as a fraternal beneficiary association, upon what is known as the separate jurisdiction plan, shall be treated as single State organizations, and all reports required by the provisions of this chapter shall be made and furnished by the officers of such supreme State governing body and shall embrace and contain the transactions, liabilities and assets of such State organization.

Art. 10.28. Benefit Not Attachable

No money or other benefit, charity or relief or aid to be paid, provided or rendered by any such society shall be liable to attachment, garnish-

ment, or other process, or be seized, taken or appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary or any other person who may have a right thereunder, either before or after payment.

Art. 10.29. Constitution and Laws

Every society transacting business under this chapter shall file with the Board, a duly certified copy of all amendments of, or additions to, its Constitution and laws within ninety (90) days after the enactment of the same. Printed copies of the Constitution and laws, as amended, changed, or added to, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the legal adoption thereof.

Art. 10.30. Annual Reports

Every society transacting business in this State shall annually, on or before the first day of March, file with the Board of Insurance Commissioners in such form as the Board may require, a statement under oath of its president and secretary or corresponding officers, of its condition and standing on the thirty-first day of December next preceding, and its transactions for the year ending on that date, and shall furnish such other information as said Board may deem necessary to a proper exhibit of its business and plan of working. The Board may at other times require any further statement it may deem necessary to be made relating to such society.

In addition to such annual report, each society shall annually report to said Board a valuation of its certificates in force on December 31st last preceding, excluding those issued within the year for which the report is filed, in cases where the contributions for the first year in whole or in part are used for current mortality and expenses. Such report of valuation shall show as contingent liabilities the present mid-year value of the promised benefits provided in the constitution and laws of such society, under the certificates subject to valuation; and as contingent assets the present mid-year value of the future net contributions provided in the Constitution and laws as the same are in practice actually collected. At the option of any society, in lieu of the above, the valuation may show the net value of the certificates subject to valuation hereinbefore provided, and said net value, when computed in case of monthly contributions, may be the mean of the terminal values for the end of the preceding and of the current insurance years. Such valuation shall be certified by a competent accountant or actuary, or, at the request and expense of the society, verified by the actuary of the Department of Insurance of the home State of the society, and shall be filed with the Board of Insurance Commissioners within ninety (90) days after the submission of the last preceding annual report. The legal minimum standard of valuation for all certificates, except for disability benefits, shall be the National Fraternal Congress Table of Mortality as adopted by the National Congress, August 23, 1899; or, at the option of the society, any higher table; or, at its option, it may use a table based upon the society's own experience of at least twenty (20) years, and covering not less than one hundred thousand (100,000) lives with interest assumption not more than four (4%) per centum per annum. Each such valuation report shall set forth clearly and fully the mortality and interest basis and the method of valuation.

Any society providing for disability benefits shall keep the net contributions for such benefits in a fund separate and apart from all other benefit and expense funds and the valuation of all other business of the society; provided, that where a combined contribution table is used by

a society for both death and permanent total disability benefits, the valuation shall be according to tables of reliable experiences, and in such cases a separation of the funds shall not be required.

The valuation herein provided for shall not be considered or regarded as a test of the financial solvency of the society, but each society shall be held to be legally solvent so long as the funds in its possession are equal to or in excess of its matured liabilities. A report of such valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each beneficiary member of the society not later than June 1st of each year; or in lieu thereof, such report of valuation and showing of the society's condition as thereby disclosed may be published in the society's official paper and the issue containing the same mailed to each beneficiary member of the society.

The laws of such society shall provide that if the stated periodical contributions of the members are insufficient to pay all matured death and disability claims in full, and to provide for the creation and maintenance of the funds required by its laws additional, increased or extra rates of contributions shall be collected from the members to meet such deficiency; and such laws may provide that, upon the written application or consent of the member, his certificate may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding five (5%) per centum per annum.

Art. 10.31. Provisions to Insure Security

If the valuation of the certificates, as hereinbefore provided, on December 31, 1917, shall show that the present value of future net contributions, together with the admitted assets, is less than the present value of the promised benefits and accrued liabilities, such society shall thereafter maintain said financial condition at each succeeding triennial valuation as to the degree of deficiency as shown in the valuation as of December 31, 1917. If at any succeeding triennial valuation such society does not show at least the same condition, the Board of Insurance Commissioners shall direct that it thereafter comply with the requirements herein specified. If the next succeeding triennial valuation after the receipt of such notice shall show that the Society has failed to maintain the conditions required herein, said Board may, in the absence of good cause shown for such failure, institute proceedings for the dissolution of such society, or in the case of a foreign society, its license may be cancelled in the manner provided in this chapter. Any such society shown by any triennial valuation, subsequent to December 31, 1917, not to have maintained the condition herein required, shall, within two (2) years thereafter, make such improvement as to show a percentage of deficiency not greater than as of December 31, 1917, or thereafter, as to all new members admitted, be subject so far as stated rates of contributions are concerned, to the provisions of this chapter applicable to the organization of new societies. The net mortality or beneficiary contributions and funds of new members shall be kept separate and apart from the other funds of the society. If such required improvement is not shown by the succeeding triennial valuation, then the said new members may be placed in a separate class and their certificates valued as an independent society in respect of contributions and funds.

Art. 10.32. Accumulation Basis

In lieu of the requirements of the two preceding articles, any society accepting in its laws the provisions of this article may value its certificates on a basis herein designated "accumulation basis," by crediting

each member with the net amount contributed for each year and with interest at approximately the next rate earned and by charging him with his share of the losses for each year, herein designated "cost of insurance," and carrying the balance, if any, to his credit. The charge for the cost of insurance may be according to the actual experience of the society applied to a table of mortality recognized by the law of this State, and shall take into consideration the amount at risk during each year, which shall be the amount payable at death less the credit to the member. Except as specifically provided in its articles or laws or contracts, no charge shall be carried forward from the first valuation hereunder against any member for any past share of losses exceeding the contributions and credit. If, after the first valuation, any member's share of losses for any year exceeds his credit, including the contribution for the year, the contribution shall be increased to cover his share of the losses. Any such excess share of losses chargeable to any member may be paid out of a fund of contribution especially created or required for such purpose. Any member may transfer to any plan adopted by the society with net rates on which tabular reserves are maintained and on such transfer shall be entitled to make such application of his credit as provided in the laws of the society. Certificates issued, rerated or adjusted on a basis providing for adequate rates with adequate reserves to mature such certificates upon assumption for mortality and interest recognized by the law of this State shall be valued on such basis, herein designated the "Tabular Basis." If on the first valuation under this article a deficiency in reserve shall be shown for any such certificate, the same shall be valued on the accumulation basis.

Whenever in any society having members upon the tabular basis and upon the accumulation basis, the total of all costs of insurance provided for any year shall be insufficient to meet the actual death and disability losses for the year, the deficiency shall be met for the year from the available funds after setting aside all credits in the reserve or from increased contributions or by an increase in the number of assessments applied to the society, as a whole or to classes of members as may be specified in its laws. Savings from a lower amount of death losses may be returned in like manner as may be specified in its laws. If the laws of the society so provide, the assets representing the reserves of any separate class of members may be carried separately for such class as if in an independent society. The required reserve accumulation of such class so set apart shall not thereafter be mingled with the assets of other classes of the society.

A table showing the credits to individual members for each age and year of entry and showing opposite each credit the tabular reserve required on the whole life, or other plan of insurance, specified in the contract, according to assumptions for mortality and interest recognized by the law of this State and adopted by the society, shall be filed by the society with each annual report, and also be furnished to each member before July 1st of each year.

In lieu of the aforesaid statement there may be furnished to each member within the same time a statement giving the credit for such member and giving the tabular reserve and level rate required for a transfer carrying out the plan of insurance specified in the contract. No table or statement need be made or furnished where the reserves are maintained on the tabular basis. For this purpose individual bookkeeping accounts for each member shall not be required and all calculations may be made by the actuarial methods.

Nothing herein shall prevent the maintenance of such surplus over and above the credits on the accumulation basis, and the reserves on the

tabular basis pursuant to its laws; nor be construed as giving to the individual member any right or claim to any such reserve or credit other than in manner as expressed in the contract and its laws; nor as making any such reserve or credits a liability in determining the legal solvency of the society.

Art. 10.33. Examination of Domestic Societies

The Board of Insurance Commissioners or any person it may appoint, shall have the power of visitation and examination into the affairs of any domestic society. It may employ assistants for the purpose of such examination, and it, or any person it may appoint, shall have free access to all the books, papers and documents that relate to the business of the society, and may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and conditions of the society. The expense of such examination shall be paid by the society examined, upon statement furnished by the Board of Insurance Commissioners, and the examination shall be made at least once in three (3) years. Whenever after examination the Board is satisfied that any domestic society has failed to comply with any provisions of this chapter, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently; or whenever any domestic society, after the existence of one (1) year or more, shall have a membership of less than four hundred (400), or shall determine to discontinue business, said Board may present the facts relating thereto to the Attorney General, who shall, if he deem the circumstances warrant, commence an action in quo warranto in a court of competent jurisdiction, and if it shall then appear upon the trial that such society should be closed, said society shall be enjoined from carrying on any further business and some person shall be appointed receiver of such society and shall proceed at once to take possession of the books, papers, moneys and other assets of the society, and shall forthwith, under the direction of the court, proceed to close the affairs of the society, and to distribute its funds to those entitled thereto. No such proceeding shall be commenced by the Attorney General against any such society until after notice has been duly served on the chief executive officers of the society and a reasonable opportunity given to it, on a date named in said notice, to show cause why such proceedings should not be commenced.

Art. 10.34. Application for Receiver, etc.

No application for injunction against or proceedings for the dissolution of or the appointment of a receiver for any such domestic society or branch thereof shall be entertained by any court in the State unless the same is made by the Attorney General.

Art. 10.35. Examination of Foreign Societies

The Board of Insurance Commissioners, or any person whom it may appoint, may examine any foreign society transacting or applying for admission to transact business in this State. The said Board may employ assistants, and it, or any person it may appoint, shall have free access to all the books, papers and documents that relate to the business of the society, and may summon and qualify as witnesses under oath and examine its officers, agents and employees and other persons in relation to the affairs, transactions and conditions of the society. It may, in its discretion, accept in lieu of such examination the examination of the Insurance Department of the state, territory, district, province or country where such society is organized. The actual expense of examiners making such examination shall be paid by the society, upon statements furnished

by the Board. If any such society or its officers refuse to permit such examination or to comply with the provisions of the law relative thereto, the authority of such society to write new business in this State shall be suspended, or license refused, until satisfactory evidence is furnished the Board of Insurance Commissioners relating to the condition and affairs of the society, and during suspension the society shall not write any new business in this State.

Art. 10.36. No Adverse Publications

Pending, during or after an examination or investigation of any such society, either domestic or foreign, the Board of Insurance Commissioners shall make public no financial statement, report or finding, nor shall it permit to become public any financial statement, report or finding affecting the status, standing or rights of any such society until a copy thereof shall have been served upon such society, at its home office, nor until such society shall have been afforded a reasonable opportunity to answer any such financial statement or report or finding, and to make such showing in connection therewith as it may desire.

Art. 10.37. Revocation of License

When the Board of Insurance Commissioners on investigation is satisfied that any foreign society transacting business under this law has exceeded its powers, or has failed to comply with any provision of this chapter, or is conducting business fraudulently, or is not carrying out its contracts in good faith, the Board shall notify the society of its findings, and state in writing the grounds of the Board's dissatisfaction, and after reasonable notice require said society, on a date named, to show cause why its license should not be revoked. If, on the date named in said notice, such objections have not been removed to the satisfaction of said Board or the society does not present good and sufficient reason why its authority to transact business in this State should not at that time be revoked, the Board may revoke the authority of the society to continue business in this State. All decisions and findings of said Board made under the provisions of this article may be reviewed by proper proceedings in any court of competent jurisdiction.

Art. 10.38. Examination of Certain Societies

Nothing in this chapter shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows or Knights of Pythias (exclusive of the insurance department of the supreme lodge Knights of Pythias) and the Junior Order of the United American Mechanics (exclusive of their beneficiary degree of insurance branch) or societies which limit their membership to any one hazardous occupation nor to similar societies which do not issue insurance certificates nor to an association of local lodges of a society now doing business in this State which provides death benefits not exceeding Five Hundred (\$500.00) Dollars to any one person or disability benefits not exceeding Three Hundred (\$300.00) Dollars in any one year to pay one person or both, nor to any contracts of reinsurance business on such plan in this State nor to domestic societies which limit their membership to the employees of a particular city or town, designated firm, business house or corporation, nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description which do not provide for a death benefit of more than One Hundred (\$100.00) Dollars or for disability benefits of more than One Hundred and Fifty (\$150.00) Dollars to any person in one (1) year. The Board of Insurance Commissioners may

require from any society such information as will enable it to determine whether such society is exempt from the provisions of this law.

Any fraternal benefit society heretofore organized and incorporated and operating within the definition set forth in the first three articles of this chapter, providing for the benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits, may be licensed under the provisions of this chapter and shall have all the privileges and shall be subject to all the provisions and regulations of this law, except that the provisions of this law requiring medical examinations, valuations of benefit certificates and that the certificates shall specify the amount of benefits, shall not apply to such society.

Art. 10.39. Exemption from Taxation

Every fraternal benefit society organized or licensed under the provisions of Chapter 8 of Title 78 of the Revised Civil Statutes of Texas or this Chapter is hereby declared to be a charitable and benevolent institution, and all of the funds of such fraternal benefit society shall be exempt from all and every state, county, district, municipal and school tax, including occupation taxes, other than taxes on real estate and office equipment when used for other than lodge purposes.

Art. 10.40. Conversion of Fraternal Benefit Society into Mutual or Stock Company

Sec. 1. Any fraternal benefit society with a lodge system and representative form of government, doing business in the State of Texas, may convert itself into a Mutual Benefit Company, or into an incorporated Stock Company, by conforming to the provisions of this act.

Sec. 2. When it shall be determined by the governing body of a Fraternal Benefit Society to submit the proposed change to the members of the society, a meeting shall be called not less than ninety (90) days hence, and notice of such purpose with a general plan of the changes shall be mailed to each member or policyholder of the Society to their post office address as shown by the Society records, and all the subordinate lodges or branches of the Society, which notice shall be mailed at least forty (40) days prior to the day named in the call by the governing body. Within twenty (20) days after the receipt of such notice, each lodge or subordinate branch shall in Regular or Called Session pass upon the proposal and choose a representative or delegate, by whatever name the representative may be known, to the governing body for the State (if such Society be operating in more than one State). When the delegates or representatives so chosen to the State body shall have assembled they shall choose the requisite number of representatives or delegates to which the State may be entitled to the Supreme or Grand Lodge, if same be located in the State of Texas. Provided that no such society shall convert itself into a mutual benefit or incorporated stock company except upon such terms and conditions as in the opinion of the Board of Insurance Commissioners of Texas shall fully protect the rights and interests of its members and policyholders; and the plan of such change shall be submitted to and approved by the Board of Insurance Commissioners before it shall be submitted to the members or policyholders and the subordinate lodges or branches as hereinbefore provided.

Sec. 3. Pursuant to said notice and convening of the Supreme governing body, there shall be adopted a resolution by delegates representing lodges which comprise not less than sixty (60%) per cent of the total membership of the association, authorizing the conversion of the said

Fraternal Benefit Society into a Mutual or Stock Life Insurance Company, and shall set forth or ratify a certificate of incorporation, amending the Society's charter, and shall set forth:

(a) The name of the Society, and the name of the new corporation by which it shall thereafter be known, which shall preferably be a continuation of the same name. Provided that if the new corporation shall change from the former name of the Society it shall not adopt the same name as that of any other such Society doing business in this State nor a name similar to that of any other such Society doing business in this State.

(b) The object of the corporation.

(c) The location of its principal offices, which must be within the State of Texas, and the names of the principal officers of such corporation, who shall serve until their successors are elected and qualified.

(d) The period, if any, for the duration of the corporation.

(e) The amount of the capital stock authorized, if any, and the number of shares into which it is divided, and the amount of capital stock to be immediately paid in, which shall not be less than One Hundred Thousand (\$100,000.00) Dollars and generally comply with laws of Texas governing the organizations of Insurance Companies.

(f) Any other provisions which the supreme or governing body may choose to insert to protect the membership of the retiring Society and insure the business and the conduct of the affairs of the new corporation.

Sec. 4. The certificate of incorporation so adopted or amended shall be filed with the Board of Insurance Commissioners and be incorporated in the charter of the proposed Company.

Sec. 5. A report of said meeting certified to by the presiding officers under the corporate seal of such Society shall also be filed with the Board of Insurance Commissioners.

Sec. 6. If such Fraternal Benefit Society be converted into a Stock Life Insurance Company, each and every policyholder, certificate holder, or other member of such Society, shall have a preference right for ninety (90) days after such determination to subscribe for the proportion of the total capital stock offered for sale, which the amount of his insurance bears to the Society's total insurance in force at the time of the conversion, which time shall be that at which the supreme governing body authorize the change.

Before any of the stock shall be offered for public sale, the membership of the Society shall have a preference in the purchase thereof, provided that no one member shall be allowed to subscribe or purchase more than twenty-five (25%) per cent of the capital stock of the new company, nor shall he subscribe or be allowed to purchase more than ten (10%) per cent of the capital stock of the new company if there be other members applying in writing for the purchase of stock whose subscriptions are not filled. If the membership shall not have subscribed for the total capital stock authorized, then others who were not members of the Society at the time of the conversion may be permitted to subscribe for stock and be allowed equal rights in the ownership thereof, with all other stockholders. It shall be the duty of such Fraternal Benefit Society desiring to be converted into a Stock Company to advise every member or policyholder of his right to subscribe for and purchase the stock of such Stock Life Insurance Company and of the amount of such stock for which he is entitled to subscribe and all other terms and conditions, in a form to be approved by the Board of Insurance Commissioners within ten (10) days after such Society shall be voted to so convert itself into a Stock Company. Proof of depositing a letter addressed to all members or policyholders, conveying the advice, in the approved form as herein provided for, shall be deemed proof of compliance with the foregoing requirement.

Sec. 7. When such Fraternal Benefit Societies shall have complied with the provisions of this article and the other laws of this State regulating the incorporation of Life Insurance Companies, and shall have received from the Board of Insurance Commissioners its charter or certificate of authority to transact business as a Stock Life Insurance Company, its reorganization and conversion into such Stock Company shall be complete. Such reorganization and converted corporation shall be deemed in law to have all the rights, privileges, powers, and authority of any other Stock corporation organized for doing a Life Insurance business in the State of Texas, and controlled by the laws applying thereto. The new corporation shall be deemed in law to be a continuation of the business of the Fraternal Benefit Society when the reorganization and conversion shall have been accomplished by the formation of a new Company or by amendment to its former charter, and such reorganized corporation shall succeed to and become invested with all and singular the rights, privileges, franchises, and all property, real, personal, or mixed, of the former Society, and all debts due on any account and all other things and choses in action theretofore belonging to such Fraternal Benefit Society, and all property rights, privileges, franchises, and all other interest, shall thereafter be as effectually the property of such organized and converted corporation as they were the property of the former Fraternal Benefit Society, and the title to any real estate by deed or otherwise vested in the former Fraternal Benefit Society 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.

Sec. 8. The rights of all members, policyholders, creditors, and the standing of all claims under the former Fraternal Benefit Society shall be preserved unimpaired under the new corporation, and all debts, liabilities, and duties of the former Fraternal Benefit Society 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, and all outstanding benefit certificates or policies issued by the said Fraternal Benefit Society shall be valid obligations of the new incorporation, without the issuance of new policies.

Sec. 9. Such organized and converted corporation shall be obliged to carry out and perform all of the obligations of every kind and character owing by the former Fraternal Benefit Society to the holders of its policies or beneficial certificates, and the same may be enforced against it to the extent as if said policies and beneficial certificates had been issued by it after conversion. Any pending suits wherein the former Fraternal Benefit Society was a party shall be unaffected by the conversion thereof and shall be prosecuted by or against such reorganized and converted corporation the same as if the conversion had not taken place.

Sec. 10. The members of such Fraternal Benefit Society, or the policyholders in the chartered incorporated Company, may form local clubs for social and charitable purposes, but the same shall have no connection with the management of the affairs of the corporation or affect its liability or the insurance in effect.

CHAPTER ELEVEN

MUTUAL LIFE INSURANCE COMPANIES

Art.

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Art. 11.01. Incorporation

Nine or more persons, residents of this State, may form a mutual life insurance company for the purposes of insuring the lives of individuals on the mutual, level premium, legal reserve plan, and any such company heretofore or hereafter created, may issue, combined or separately, life, health and accident insurance policies, subject to the provisions of this chapter, by executing and acknowledging articles of incorporation for that purpose. Such articles of incorporation shall set forth:

1. The name and residence of each incorporator;
2. The name of the proposed company, which shall contain the words, "Mutual Life Insurance Company," as a part thereof;
3. The location of the principal office from which the business of the company is to be transacted;
4. The number of directors and the name and residence of each one who is to serve until the first regular election of directors.

Art. 11.02. Certificate of Authority

If the Attorney General approves such articles of incorporation, he shall so certify thereon in writing and return them to the Board of Insurance Commissioners, which shall file the same in its office and issue to the company a certificate of authority to which shall be attached a certified copy of the articles of incorporation authorizing such company to receive applications for insurance as provided in this chapter, to collect premiums thereon and to issue receipts therefor. Such certificate shall expressly state that such company is not authorized to issue policies of insurance or transact any business other than that specifically authorized therein until it has received bona fide applications for insurance on the lives of at least two hundred (200) individuals for not less than Five Hundred (\$500.00) Dollars each, aggregating at least Two Hundred Thousand (\$200,000.00) Dollars of insurance on which the aggregate net premiums shall be at least equal to the largest net risk assumed on any one

life, which applications have been approved by a competent physician and on which the first annual premiums at adequate rates have been paid to the company, nor until these facts shall have been fully shown to the Board and the Board shall have issued to the company a certificate of authority to transact business as a mutual life insurance company. If this showing is not made within six (6) months after the date upon which such articles of incorporation are filed with the Board, it shall be its duty to cancel the certificate of authority of such company to receive applications for insurance, and to notify each incorporator of such action. When the Board shall be notified that any such company has complied with all the provisions of this and the preceding article, the Board shall make, or cause to be made, at the expense of such company, an examination thereof; and if the Board shall find that the law has been fully complied with, it shall be the Board's duty to issue to it a certificate of authority to transact the business of a mutual life insurance company, in accordance with the terms of this chapter.

Art. 11.03. 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 transact the business of a mutual life insurance company.

Art. 11.04. Annual Meeting of Policyholders

There shall be an annual meeting of all the policyholders of each mutual life insurance company at the home office of such company or at such other place as may be properly announced to the policyholders, on the second Tuesday in March after it shall have received a certificate of authority to transact the business of life insurance, and annually thereafter, at which the directors shall be elected for the succeeding year, and at which by-laws for the government of the company, not inconsistent with the provisions of this chapter or with the laws of this State may be adopted, and at which the existing by-laws may be repealed or amended. At such annual meeting, each policyholder shall be entitled to one vote for each Five Hundred (\$500.00) Dollars of insurance held by him. Any policyholder may execute his proxy authorizing and entitling the holder to exercise his voting powers, unless such proxy shall be revoked previous to such annual meeting.

Art. 11.05. Bonds of Officers

The president, secretary and treasurer shall each give bond for the protection of the policyholders in amount and with securities to be approved by the Board of Insurance Commissioners, conditioned for the faithful performance of their respective duties.

Art. 11.06. Annual Statement; Renewal Certificate

Such mutual life insurance companies shall file their annual statements with the Board of Insurance Commissioners, and receive from the Board their certificates of authority to transact the business of life, health, and accident insurance.

Art. 11.07. Annual Examination

The Board of Insurance Commissioners shall have made, once in each calendar year, a thorough examination of the affairs of each such mutual life insurance company, the report of which examination shall be made to such Board under oath. The Board, if it approves the report of such examination, shall furnish the company with certificate of approval. The expense of such examination shall be borne by the company examined.

Art. 11.08. Agents and Commissions

Any such mutual life insurance company which has received authority from the Board of Insurance Commissioners to transact business in this State shall receive from such Board, upon written request therefor, a certificate of authority for each of its agents in this State. Contracts between such companies and such agents shall not provide for commissions or other compensation to such agents in excess of the expense loading in the premiums of policies issued upon the applications procured by such agents, collected therefor, and paid to the company in cash.

Art. 11.09. Annual Valuation of Policies

(A) 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 making such valuation the Board may use group methods and approximate averages for fractions of a year or otherwise. In making such valuation the reserve liability of all outstanding policies of substandard insurance shall be computed in accordance with the laws relating specifically to such policies. In making such valuation the reserve liability of all other outstanding policies of insurance and annuity contracts shall be computed on the net premium basis and in accordance with their terms and the following rules:

(1) As respects policies issued prior to January 1, 1948, the computation shall be on the basis of the American Experience Table of Mortality, with interest at such rate as may be specified in such policy contracts.

(2) As respects policies issued after the 31st day of December, 1947, the computation shall be on the basis of the mortality table and interest rate specified in the respective policies, provided that (I) the specified rate of interest shall not exceed three and one-half (3½%) per cent per annum, (II) the specified table for policies other than policies of industrial life insurance shall be the American Experience Table of Mortality, the American Men Ultimate Table of Mortality, or the Commissioners 1941 Standard Ordinary Mortality Table, and (III) the specified table for policies of industrial life insurance shall be the American Experience Table of Mortality, the Standard Industrial Mortality Table, the Substandard Industrial Mortality Table, the 1941 Standard Industrial Mortality Table, or the 1941 Substandard Industrial Mortality Table.

(3) As respects annuity contracts and contracts or policies for disability benefits and accidental death benefits, the computation shall be on the basis of the standards and methods adopted by the respective companies and approved by the Board of Insurance Commissioners.

(B) If the gross premium charged by any mutual life insurance company on any policy or contract is less than the net premium for the policy

or contract, according to the mortality table, rate of interest and method used in computing the reserve liability thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

Art. 11.10. Net Premiums

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 11.11 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 11.12. Provided that as to mutual assessment associations organized and operating under the laws of this State on May 17, 1943, which convert to a mutual legal reserve basis and qualify under this chapter, 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 article or in the provisions of this chapter or Chapter 3 of this code 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 article is purely permissive and if such associations do not so voluntarily decide to come under this chapter, then this chapter shall not in any way apply to such associations.

The provisions of this article that dividends to policyholders shall be paid in accordance with Article 11.12 may be waived until the maximum surplus and contingency reserve requirement has been met by converted mutual assessment associations.

Art. 11.11. Contingency Reserve

Any Mutual, Level Premium, Legal Reserve Life Insurance Company organized and doing business under the provisions of this Chapter may accumulate and maintain a Contingency Reserve, over and above all of its reserves and liabilities required or specifically permitted by the provisions of this Chapter, in an amount not exceeding Ten Thousand Dollars (\$10,000), or an amount equal to the sum of ten per cent (10%) of all of its policy reserves and policy liabilities, plus one per cent (1%) of the amount of its life insurance then in force, if such sum be greater than Ten Thousand Dollars (\$10,000), but in no event to exceed Seven Hundred and Fifty Thousand Dollars (\$750,000), or ten per cent (10%) of all of its policy reserves and policy liabilities, whichever shall be greater. The term 'policy reserves and policy liabilities' as used in this Section of this Act shall include only its reserves on outstanding life Insurance Policies and Annuity Contracts, contracts issued as supplemental thereto or in connection therewith or provisions included therein insuring against disability or against death by accident or accidental means, and including liabilities required under optional modes of settlement, and for dividends left on deposit at interest, after deducting the net value of its risks re-insured by other solvent assuming insurers, but this shall not affect any existing Contingency Reserve held by any such Company on the effective date of this Act, save that whenever and as long as such existing Contingency Reserve shall exceed the limit above mentioned, it shall not be entitled to maintain any additional Contingency Reserve.

"The Board of Insurance Commissioners may, for good cause shown by an official order, permit any such Company to accumulate and maintain a Contingency Reserve in excess of the maximum amount hereinbefore prescribed, for a period, not exceeding one (1) year under any one order, which shall be specified in such order. The Board of Insurance Commissioners shall state in such order its reasons therefor.

"All such Contingency Reserves as provided for by this Act shall be invested according to law under the supervision of the Board of Insurance Commissioners and shall be used exclusively for the payment of death claims and dividends to policyholders. All interests and earnings from such investments in excess of the maximum Contingency Reserves as provided for in this Act shall be paid in dividends to policyholders according to present laws.

The provisions of House Bill No. 38, Acts 1951, 52nd Leg., p. 160, ch. 98, amending Article 4810 of the Revised Civil Statutes of 1925, were included in the enrolled bill of Senate Bill No. 236, Article 11.11, constituting the Insurance Code, by the Enrolling Clerk of the Senate pursuant to House Concurrent Resolution No. 179.

Art. 11.12. 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, it shall ap-

portion 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.

Art. 11.13. Policies

Mutual life insurance companies are authorized to transact business throughout this State and in other states to which they may be admitted; they shall issue no policies except upon the participating plan with dividends payable annually as provided in this chapter; the form of all policies issued by any such company shall be approved by the Board of Insurance Commissioners, and all such policies shall have plainly printed on both the face and the reverse sides thereof the words, "The form of this policy is approved by the Board of Insurance Commissioners of the State of Texas," and the Board shall revoke the certificate of authority of any such company which shall issue any policy except upon such form so approved. No such company shall issue any policy or policies by which, after deducting reinsurance, if any, it shall be bound for more than Five Thousand (\$5,000.00) Dollars upon any one life at any time when the total amount of its insurance in force is less than Ten Million (\$10,000,000.00) Dollars.

Art. 11.14. Table of Guaranteed Values

Each policy issued by such company shall contain a table of guaranteed values, which shall become non-forfeitable not later than upon the payment of the third full annual premium; such tables of values shall be drawn in accordance with the law governing life, health and accident insurance companies.

Art. 11.15. Incurring Debts

No mutual life insurance company shall have the power except as provided in this chapter, to borrow money for any purpose other than the payment of death losses. No such company shall have the power to incur any debt on any account except under policies issued by it or for money borrowed to pay death losses, for which any portion of its assets over and above that which may represent or be derived from the expense loading of the premiums collected by it, shall, in any event be subject to execution upon a judgment therefor.

Art. 11.16. Advances to Company

Any officer or director of a mutual life insurance company or any person so authorized in Article 21.27 of this code, 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.

Art. 11.17. Liabilities

At any time when the liabilities of any such company, computing its reserve liability upon the mortality tables and the interest rates 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 mortality tables specified in its policy contracts and three and one-half (3½%) 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 the 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.

Art. 11.18. Investment of Funds

Mutual life insurance companies shall invest their funds in accordance with the provisions of the third chapter of this code, concerning investments of life, health and accident insurance companies in this State; all moneys of mutual life insurance companies, coming into the hands of any officer thereof, when not invested as prescribed, shall be deposited in the name of such company in some bank which is subject to either state or national regulation and supervision, and which has been approved by the Board of Insurance Commissioners as a depository therefor.

Art. 11.19. Other Laws to Govern

The provisions of Chapter 3 of this code when not in conflict with the articles of this chapter, shall apply to and govern mutual life insurance companies organized under the provisions of this chapter.

CHAPTER TWELVE

LOCAL MUTUAL AID ASSOCIATIONS

Art.

- 12.01. Scope of Chapter.
- 12.02. Definition.
- 12.03. Territorial Limitation of Association.
- 12.04. Independent Associations.
- 12.05. Organization.
- 12.06. Names of Association.
- 12.07. Failure to Consummate Organization.
- 12.08. By-Laws.
- 12.09. Kinds of Benefits.
- 12.10. May Not Issue Guaranteed Certificates.
- 12.11. Revocation of Right to Do Business.
- 12.12. Corporate Existence.
- 12.13. Dissolution and Forfeitures.
- 12.14. Winding up Affairs.
- 12.15. Penalty.
- 12.16. Exemptions.
- 12.17. Fraternal Law Not Applicable.
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Art. 12.01. Scope of Chapter

This chapter and Chapter 14 of this code shall apply to and regulate the business of local mutual aid associations, including those associations defined in Article 14.37 of Chapter 14 of this code operating for the purpose of providing benefit for members and death benefit for the beneficiaries of deceased members, and shall comprehend and include all societies and associations of any sort operating an insurance business and paying such benefits where funds are provided by assessments upon the members as needed, except those exempt under this chapter and Chapter 14 aforesaid.

Art. 12.02. Definition

Any person or persons desiring to organize a local mutual aid association to be operated upon the assessment as needed or similar plan or a burial company, association or society as defined in Article 14.37, Chapter 14 of this code, shall be permitted to do so upon the terms and conditions hereinafter set forth and by complying with the provisions of this chapter. No person, firm or corporation shall hereafter operate in this State any sort of a local mutual aid society or association paying a death benefit or other benefits and providing its funds by assessments as needed, except under the provisions hereof, or under other specific provisions of the laws of this State.

Art. 12.03. Territorial Limitation of Association

No local mutual aid association or association defined in Article 14.37, Chapter 14 of this code, shall be permitted to operate in this State except it confine its operations in the writing of business to one county or to a territory embraced within a radius of seventy-five (75) miles of the city or town wherein the home office of such association is located, including all parts of all counties traversed by said radius, or in event where the home office of an association is located within less than thirty (30) miles of the border line of this State, such operations may be extended to and

permitted in all of the territory embraced within a radius of one hundred (100) miles of the city or town in which the home office of such association is located and may include all parts of all counties traversed by said radius, and any person, officer or agent of any association writing or soliciting any business in violation of this article, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not more than Five Hundred (\$500.00) Dollars.

Art. 12.04. Independent Associations

There shall be no connection between any two associations operating under this chapter and no one association shall contribute anything by way of salary or compensation to any executive officer for the purposes of such other association.

Art. 12.05. Organization

Any number of persons not less than five, all of whom must be citizens of the United States and residents of the territory to be embraced within their field of operation may organize a local mutual aid association or an association as defined in Article 14.37 of Chapter 14 of this code in the following manner:

(1) They shall draw up articles of association which shall be executed in triplicate, acknowledged as required for instruments intended to be recorded, and which shall state:

(a) The name of the association, which must be distinctly different from associations operating in the same radius.

(b) The location of the principal office and the territory to which its operation shall be confined.

(c) The object for which the association is created, including the upper and lower age limits of persons to whom benefit certificates may be issued.

(d) Titles of the officers of the association and the number of directors, and the names of the persons who will, pending permanent organization, fill such offices.

(2) The said articles of association so executed shall be presented to the Board of Insurance Commissioners of the State of Texas, together with the application for a permit to solicit members, and together with the bond in a sum of Five Thousand (\$5,000.00) Dollars, which said bond shall be payable to the Board of Insurance Commissioners, executed by the organizers as principals and one surety company, acceptable to the Board, as surety, conditioned that if the persons organizing the association shall fail to secure the requisite number of members or for any other reason shall not consummate the organization of the association within six (6) months from its date, then the advance membership dues and assessments shall be returned to the parties paying same.

(3) The constitution and by-laws under which the association will operate pending permanent organization, together with the certificate of membership which the association proposes to issue, shall be submitted to the Board for approval.

(4) The Board shall make an investigation of the individuals who shall make such application, and when the Board shall be satisfied that the organizers are responsible persons, and of the probability that territory to be served can support such association and that the articles of association, constitution, by-laws and certificates are in proper form and the bond shall have been approved, it shall issue a permit to the organizers authorizing them to solicit membership in the association and to collect the membership fee and one death assessment.

(5) When such permit to solicit membership has been issued by the Commissioners, the organizers may solicit members, and when they shall have received not less than five hundred (500) bona fide applications for membership in the association in all classes and when they shall have collected from such members the membership fees and one advance assessment, they shall make a showing to the Board of Insurance Commissioners of Texas in such form as is required, setting forth the facts. Such membership should be completed within six (6) months from date of filing application. Thereupon the Board shall require, and the officer of the association designated to have charge of the funds of the association shall make and file a surety bond executed by a surety company authorized to do business in the State of Texas, satisfactory to the Board as surety, payable and in an amount and conditioned as required and specified in Article 14.08, Chapter 14 of this code.

Provided, however, that the provisions of this Article shall not apply to any local mutual aid association now organized and operating whose total membership shall at no time exceed one thousand (1,000) members and which shall never charge for annual dues or assessments in excess of One (\$1.00) Dollar each, and whose membership fee shall at no time exceed Two Dollars and Fifty Cents (\$2.50). However, such association thus exempted shall file a bond, conditioned as herein above provided, in the amount of One Thousand (\$1,000.00) Dollars with the Board of Insurance Commissioners of Texas.

(6) The Board shall then issue to such association a certificate of authority to do business in Texas, which shall expire on May 31st following, together with a certified copy of the charter.

Art. 12.06. Names of Association

Upon application for charter to do business in Texas the Board of Insurance Commissioners may determine whether the name of the association would be confusing and misleading to the public; if so, it may refuse the certificate or charter, and prohibit the doing of business under the name.

Art. 12.07. Failure to Consummate Organization

If the organizers shall not complete the membership within the time required, the money collected shall be returned and the temporary permit issued shall be revoked.

Art. 12.08. By-laws

The constitution, by-laws and form of certificates of each association submitted to the Board and approved before writing of business is commenced, shall be effective until the first annual meeting of the association, at which time they must be confirmed by such meeting, with or without amendments as the association may decide. The constitution and by-laws of such association shall not violate any of the provisions of this law, but shall be in harmony herewith.

Art. 12.09. Kinds of Benefits

Any association hereafter organized under the provisions of this chapter shall provide for the payment of death benefits only and may not provide for old age benefits and benefits in case of accidental injuries or sickness. Any association heretofore organized prior to March 21, 1929, and paying death, old age and accident benefits may continue to pay same. Anyone or all of said benefits and the benefits to be provided shall be clearly set out in the policy issued by the association.

Art. 12.10. May Not Issue Guaranteed Certificates

An association shall not issue certificates providing for a level premium or guaranteed benefits, nor for surrender of loan values.

Art. 12.11. Revocation of Right to Do Business

The Board shall not revoke the right of any association to do business in this State except upon the judgment of a court of competent jurisdiction or upon the filing of articles of dissolution by the members of said association or the officers for them or upon a statement being filed with said Board showing that said membership had been merged and taken over by another society or association.

Art. 12.12. Corporate Existence

Any association organized under the provisions hereof or which has accepted the provisions hereof shall for the purposes of operation be and become a body corporate with authority to sue and be sued in its own name and to exercise the other powers and functions specifically herein granted, but not otherwise. Except as herein provided, such association shall be governed by this chapter and Chapter 14 of this code and shall be exempted from all other provisions of the insurance laws of this State. No law hereafter enacted shall apply to them unless they be expressly designated therein.

Art. 12.13. Dissolution and Forfeitures

Associations may dissolve at any time by vote of the majority of the members at a regular meeting called by the secretary or a special meeting called for the purpose of considering dissolution; any class or group which has been in existence for six (6) months or more shall also be dissolved automatically and shall forfeit its right to do business at any time the membership shall fall below fifty (50%) per cent of the maximum value of the policy issued, or when any class or group shall cease to operate for a period of one (1) year, and no action by any supervisory officer of the state shall be necessary to such dissolution or forfeiture. In the event of said membership becoming less than fifty (50%) per cent of the maximum amount provided in said class or group, said members by a majority vote of said officers for them shall have the right to transfer and merge said members with any other society or association after obtaining the approval of the Board of Insurance Commissioners; provided, however, that if any such association or society shall have engaged in business continuously for a period of ten (10) years, then it shall not automatically be dissolved nor forfeit its right to do business, at any time the membership shall fall below fifty (50%) per cent of the maximum value of the policy issued, but it shall become dissolved only in the event the membership shall fall below twenty-five (25%) per cent of the maximum value of the policy issued. Provided, further, that when membership becomes less than fifty (50%) per cent, the association will be dissolved automatically in event it fails to notify each member when assessment is made of the amount paid on the next preceding death claim.

Art. 12.14. Winding up Affairs

If any association heretofore or hereafter doing a local mutual aid business as herein defined or as defined in Article 14.37, Chapter 14 of this code shall cease to operate, or shall fall below the requirements of this Chapter or shall undertake to operate without a permit or certificate of authority, or shall fail or refuse to make reports as and when by law required, or shall refuse to submit to examination or pay the cost thereof,

or shall conduct its business in a fraudulent, illegal or dishonest manner, or shall violate any of the terms of this chapter, shall, in addition to any other penalties imposed on it or on its members or officers, subject itself to forfeiture of its right to do business and to dissolution; and the Attorney General shall at the request of the Board of Insurance Commissioners file such suit as may be necessary to wind up the affairs of such association and if necessary have a receiver appointed for that purpose, the venue of all of which suits shall be laid in Travis County, Texas.

Art. 12.15. Penalty

Any person or persons who shall violate any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not more than Five Hundred (\$500.00) Dollars.

Art. 12.16. Exemptions

The provisions of this chapter shall not apply to labor unions, domestic orders or associations which do not provide a death benefit of more than One Hundred and Fifty (\$150.00) Dollars, nor to the associations which are now described in Article 10.38 of this code, nor any society or association, if any, heretofore legally operating statewide on an assessment basis under any charter heretofore granted under any valid statute of this State; provided, nothing herein shall affect those associations defined in Article 14.37, Chapter 14 of this code, organized and operating under the provisions of this chapter.

Art. 12.17. Fraternal Law Not Applicable

The provisions of the Fraternal Society Law, which is Chapter 10 of this code, and Chapter 3 of this code shall not apply to associations coming within purview of this chapter.

Art. 12.18. Fees

For filing articles of association and approval of constitution, by-laws and certificates prior to organization, the Board shall charge a filing fee of Twenty (\$20.00) Dollars; for filing of each annual report it shall charge a fee of Five (\$5.00) Dollars, and it shall also charge a fee of One (\$1.00) Dollars for issuance of a certificate of authority to do business, which amount shall be paid into the general fund.

CHAPTER THIRTEEN

STATEWIDE MUTUAL ASSESSMENT COMPANIES

Art.

- 13.01. Corporations Included.
- 13.02. Life, Health and Accident Insurance Authorized by Mutual Assessment Life, Health and Accident Companies; Chapter 6, Title 78.
- 13.03. Branch Offices.
- 13.04. Policies.
- 13.05. Benefits; Minimum Membership Requirements.
- 13.06. Corporations Not Complying.
- 13.07. Penalty.
- 13.08. Fees.
- 13.09. Exceptions and Exemptions.

Art. 13.01. Corporations Included

Any corporation organized and incorporated under a preexisting law in this State without capital stock and not for profit, which law has been amended or repealed or reenacted, prior to the effective date of this code and which was operating and actually carrying on in this State immediately prior to January 1, 1933, the statewide business of mutually protecting or insuring the lives of its members by assessments made upon its members shall comply with the terms of this chapter and Chapter 14 of this code, be subject to the subsequent provisions hereof and shall be known as statewide mutual assessment corporations.

Art. 13.02. Life, Health and Accident Insurance Authorized by Mutual Assessment Life, Health and Accident Companies; Chapter 6, Title 78

Every mutual assessment life, health and accident insurance company chartered by authority of Chapter 6, Title 78, Revised Civil Statutes of Texas, and licensed by the Insurance Department of Texas under said Act and Section 18a of Senate Bill No. 37, Acts of the First Called Session of the 41st Legislature, and which has qualified under this chapter may transact the business of life, health and accident insurance under the provisions of its charter and this chapter. Provided, further, that any such company may amend or extend its charter by compliance with the same requirements provided in the general corporation laws of Texas.

Art. 13.03. Branch Offices

No corporation operating under this chapter shall be permitted to operate any independent branch office, separate group, club, or class, under any other name than that of said corporation, but all of its policies shall be issued in the home office of said corporation. Nothing herein shall be construed, however, as to prohibit any corporation hereunder from providing by its by-laws for the creation of separate groups, clubs, or classes, based upon such a reasonable classification as specified in the by-laws, and providing in the policies issued to the members of such groups, clubs, or classes that the benefits under said policies shall be limited to the assessments made, levied, and collected from any such particular group, club, or class, respectively. It is further provided that no stock or assets or benefits of any such particular group, club or class, shall be pledged, sold, or transferred without the consent of three-fourths ($\frac{3}{4}$) of the members of such particular group, club, or class.

Art. 13.04. Policies

No corporation hereunder shall issue any certificate or policy upon a limited payment plan, nor guarantee or promise to pay any type of endowment or annuity benefits, but shall confine its operation to the issuance of certificates looking to continuous payment of premiums or assessments during the life time of the policyholder.

Nothing in any application for the policy shall constitute a defense against any claim or loss under the policy unless a copy of said application is attached to the policy, and no misrepresentation therein shall constitute a defense unless same shall be shown to be material to the risk assumed, and any person who shall solicit an application for insurance upon the life of another shall in any controversy between the insured and his beneficiary and the company issuing any policy upon such application, be regarded as the agent of the company, and not the agent of the insured, but such agent shall not have power to waive, change or alter any of the terms or conditions of the application or policy.

Art. 13.05. Benefits; Minimum Membership Requirements

No corporation operating under this chapter shall write any policy or certificate of insurance calling for a maximum benefit in excess of Five Thousand (\$5,000.00) Dollars, nor any policy or certificate of insurance unless the membership of said corporation, liable for assessments on said policy or certificate or group or class or club liable therefor shall be sufficient in number at the assessment rate charged said class to pay fifty (50%) per cent of the maximum benefit set forth in said policy or certificate. In the event the membership in any group, class, or club of said corporation shall fall below such number, then the corporation shall immediately notify the members of such group, class, or club, and if said membership is not increased to said number within six (6) months thereafter, said group, class, or club, shall be consolidated with some other group, class, or club, or discontinued. In the event any corporation hereunder has only one class, group, or club, then in the event the membership of said corporation shall at any time fall below fifty (50%) per cent of the number required at the assessment rate charged to pay the maximum benefit provided by any one of its policies or certificate, the corporation shall immediately notify the members of the corporation, and unless the membership is increased to said number within six (6) months thereafter, the Board of Insurance Commissioners shall take steps under Article 14.33 of Chapter 14 to bring about the liquidation of said corporation.

Art. 13.06. Corporations Not Complying

No person, firm, unincorporated association, or corporation shall carry on in this State the statewide business of mutually protecting or insuring the lives of its members by assessments made upon its members except under the terms of and by complying with the provisions of this chapter and Chapter 14 of this code. Each and every charter of every corporation and mutual relief or benefit association granted by the State of Texas under the authority of the Secretary of State of this State, which was or is exempt from the provisions of the insurance laws of this State by the terms of Article 2971a, R.S.1879, (Article 3096, Revised Statutes 1895) and Article 3096w, Revised Statutes, 1895, which corporations heretofore have failed or refused to comply with the terms of Chapter 8A, Title 78, Revised Civil Statutes of Texas is hereby expressly repealed and revoked and said corporations are hereafter forever prohibited from carrying on any business in this State. It is the expressed intent of this article and this chapter to revoke, repeal and cancel the charter of every corporation, dormant, or otherwise, exempt from the insurance laws of this State by

Article 2971a, Revised Statutes 1879, and Article 3096 and 3096w, Revised Statutes of 1895, which failed to comply with the terms of Chapter 8A, Title 78, Revised Civil Statutes of Texas. The charters of all corporations complying with said Chapter 8A, Title 78, are expressly continued in force subject to the provisions of law. It shall be the duty of the Attorney General of this State immediately upon the effective date of this code to take necessary action by quo warranto, application for receiver, or otherwise to enforce the forfeiture of charters as provided herein and to liquidate and close the affairs of any corporation herein referred to which has heretofore failed to comply with the terms of this chapter and Chapter 14 of this code.

Art. 13.07. Penalty

Any person or persons violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not more than Five Hundred (\$500.00) Dollars. Any responsible officer of any corporation permitting or participating in the violation of this law by any corporation shall be deemed guilty of a violation of this chapter and subject to the penalties herein.

The Attorney General shall be authorized to enforce in addition to the rights of forfeiture provided herein the penalty provided in this article and Article 14.59 of Chapter 14 against any corporation or unincorporated association which shall be guilty of the violation of any of the provisions of this chapter and Chapter 14. The venue of any suit or prosecution under this article may be in Travis County, Texas.

Art. 13.08. Fees

The Board shall charge a fee of One (\$1.00) Dollar per each certificate and permit to do business issued. For filing each annual report the Board shall charge a filing fee of Ten (\$10.00) Dollars. All of said fees upon receipt shall be paid into the General Fund of the State.

Art. 13.09. Exceptions and Exemptions

This chapter shall in no wise affect or apply to companies operating as local mutual aids, as fraternal benefit societies, reciprocal exchanges, or to foreign assessment companies operating under any other law in this State, or any other form of insurance other than those corporations carrying on in this State the statewide business of mutually protecting or insuring the lives of their members by assessments made upon their members. Except as expressly provided in this chapter and in Chapter 14 of this code, no insurance law of this State shall apply to any corporation operating under this chapter, and no law hereafter enacted shall apply to them unless they be expressly designated therein.

CHAPTER FOURTEEN

GENERAL PROVISIONS FOR MUTUAL ASSESSMENT COMPANIES

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Art. 14.01. Mutual Assessment Companies; Scope of Act

This chapter shall apply to and embrace all insurance companies and associations, whether incorporated or not, which issue policies or certificates of insurance on the lives of persons, or provide health and accident benefits, upon the so-called mutual assessment plan, or whose funds are derived from the assessments upon its policyholders or members, and shall, in fact apply to all life, health and accident companies or associations which do not come within the provisions of Chapters 3, 8, 10, 11, 15, 18 or 19 of this code and Chapter 5 of Title 78, Revised Civil Statutes, 1925, and amendments thereto, except that it shall not apply to associations not operated for profit composed only of the members of a particular religious denomination, and which do not provide insurance benefits in excess of One Thousand (\$1,000.00) Dollars, on any one person and which do not pay any officer a salary in excess of One Hundred (\$100.00) Dollars per month.

This chapter shall include local mutual aid associations; statewide life; or life, health and accident associations; mutual assessment life, health and accident associations; burial associations; and similar concerns by whatsoever name or class designated, whether specifically named or not.

This chapter does not enlarge the powers or rights of any of such associations nor enlarge the scope of their legal or corporate existence; nor authorize the creation of any association or corporation to do any of the sorts of business above indicated, where such creation is not now specifically permitted by law. The laws prohibiting or limiting such creation and the exercise of corporate power are not affected by this chapter.

Art. 14.02. Definitions

The following terms when used in this chapter shall be defined:

"Association" shall refer to and include all types of organizations, corporations, firms, associations, or groups subject to the provisions of this chapter.

"Board" shall refer to the Board of Insurance Commissioners of the State of Texas.

"Member" shall include policyholders or any persons insured by an association, by whatsoever means the insurance may be made effective.

"Certificate" shall include any insurance policy or contract of insurance, certificate of membership or other document through which insurance is effected or evidenced.

"Face of certificate" shall refer to the maximum amount of promised benefits, as shown on the certificate.

"Paid in full" or "full payment" shall mean the payment of the full amount of maximum benefit due on the happening of the contingency insured against.

"Insolvent" shall refer to and include any condition or situation which is so designated herein and which is violative of the provisions of this chapter.

"Assessment" shall include premiums and mean any and all money or valuable thing paid in consideration of such insurance as is afforded by the certificate.

"Membership fee" shall be the amount of the first assessment or assessments permitted by the Board to be placed in the expense fund of associations, representing cost of soliciting or procuring the member.

Art. 14.03. Shall be Mutual in Operation

All associations operating under this chapter shall be mutual in character, but no liability shall rest upon any officer, director or member in an individual capacity by virtue of any policy issued or claims arising thereon.

Art. 14.04. By-Laws

Each corporation shall submit to the Board of Insurance Commissioners a copy of its by-laws. Such by-laws shall contain all things required by this chapter and shall not contain any provision in conflict with this chapter. The by-laws shall provide for the periodical meetings of the membership and for special meetings, at which meetings all members shall be permitted to vote. The Board of Insurance Commissioners shall examine such by-laws, and if the same comply with the provisions of this chapter shall signify their approval of same. If they shall not be in accordance with the provisions hereof, then the corporation shall make said by-laws conform hereto. Upon approval of the by-laws a copy duly certified to by the president or general manager and the secretary of the corporation shall be filed with the Board of Insurance Commissioners, and a copy duly certified by such Board shall be received in evidence in all the courts of this State. All policies issued by a corporation under this chapter shall provide that said policy is subject to the by-laws of the corporation and all future amendments thereto. All amendments shall be filed with the Board of Insurance Commissioners in a like manner as the original by-laws. A certified copy of any changes in the by-laws of each such corporation shall be mailed to each of the stockholders and/or members at the next assessment after such change in the by-laws is made.

Art. 14.05. Amending By-Laws

By-laws of any association may be amended by a majority of the members of the association present when ratified by the Board of Directors, but only at meetings called for that purpose, or at regular meetings. Amendments to the by-laws shall not be effective until approved by the Board of Insurance Commissioners. Notices of all meetings, whether regular or special, at which amendments to by-laws will be considered, must be mailed to all members. Such notices must contain full copies of the proposed changes in the by-laws and fair explanations of the intent and effect thereof.

Art. 14.06. Refusal of Certificate or Permit

No such corporation shall continue to operate in this State if the Board has notified it in writing of the refusal of the Board to issue it a certificate and permit. But any such corporation may within sixty (60) days after receiving such notice file a suit in any district court of Travis Coun-

ty, Texas, to review the said action of the Board and may by trial de novo have all necessary relief both in law and equity to enforce its rights under this chapter.

Nothing in this chapter shall be construed to validate or otherwise sanction any unlawful act of any such corporation, except when such unlawful act may have been construed to be unlawful simply by reason of the fact that the law under which said corporation was created has since been repealed or amended so as to omit therefrom such corporations as are described in this chapter.

Art. 14.07. Officers of Associations

The Board of Insurance Commissioners shall not issue to any association a certificate of authority to do business in Texas, when it shall find any officer, employee, or member of the board of directors to be unworthy of the trust or confidence of the public. After a certificate has been granted, the Board shall order the removal of any officer, employee, or director found unworthy of the trust, and if such officer, employee, or director be not removed, the Board shall cancel the certificate and proceed to deal with the association as though it were insolvent.

Art. 14.08. Bonds of Officers and Employees

Such association shall, by resolution adopted and entered on its minute book, a copy of which properly certified to by the president, secretary, or general manager shall be filed with the Board of Insurance Commissioners, designating therein some officer who shall be responsible in the handling of the funds of the corporation. Such association shall make and file for such officer a surety bond with a corporate surety company authorized to write surety bonds in this State, as surety, satisfactory and payable to the Board of Insurance Commissioners of Texas in the sum of not less than Two Thousand Five Hundred (\$2,500.00) Dollars for the use and benefit of said association, and which shall at all times be equal to the amount of the mortuary fund on hand, not to exceed Twenty Thousand (\$20,000.00) Dollars, which said bond shall obligate the principal and surety to pay such pecuniary loss as the association shall sustain through acts of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction or willful misapplication on the part of such officer, either directly and alone, or in connivance with others, while employed as such officer or exercising powers of such office. In lieu of such bond any such officer may deposit with the Board of Insurance Commissioners cash (or securities approved by the Board) which cash or securities shall be in the amount and subject to the same conditions as provided for in said bond. Provided, however, that the provisions of this article shall not apply to any local mutual aid association now organized and operating whose total membership shall at no time exceed one thousand (1,000) members and which shall never charge for annual dues or assessments in excess of One (\$1.00) Dollar each, and whose membership fee shall at no time exceed Two Dollars and Fifty Cents (\$2.50). However, such association thus exempted shall file a bond, conditioned as hereinabove provided in the amount of One Thousand (\$1,000.00) Dollars with the Board of Insurance Commissioners.

In addition to the bond required in the preceding paragraph, and in addition to the bond already required by law of certain associations subject to this chapter, each association shall procure for all other office employees, or other persons who may have access to any of its claim funds, separate bonds or blanket bonds with some surety licensed by the Board to do business in Texas, in an amount or amounts fixed by the Board with a minimum of One Thousand (\$1,000.00) Dollars and a maximum

of Five Thousand (\$5,000.00) Dollars, payable to the Board of Insurance Commissioners for the use and benefit of the association obligating the principal and surety to pay such pecuniary loss as the association shall sustain through acts of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction or willful misapplication on the part of such persons, either directly and alone, or in connivance with others. Successive recoveries on any of the bonds provided for in this article may be had on such bonds until same are exhausted.

Art. 14.09. Recovery on Bond

When the Board is informed that any officer of any such association has violated the terms of either of said bonds it shall demand a written explanation of such officer as to such charge, and if after such explanation the Board is not satisfied as to the existing facts in controversy it shall notify such officer to be and appear in Travis County with such records, writings, and other correspondence and facts as the Board deems proper, not earlier than ten (10) days or later than fifteen (15) days from service of notice, and it shall there conduct an examination into such affair, and if upon such examination the Board shall become satisfied that the terms of said bond have been violated by said officer the Board shall immediately notify the company executing said bond and prepare a written statement covering said facts and deliver same to the Attorney General of Texas, whose duty it shall be to investigate said charges and if satisfied that the terms of said bond have been violated he shall enforce the liability against said cash or securities, or he shall file suit on said bond in the name of the Board of Insurance Commissioners of Texas for the benefit of the beneficiaries thereof against said officer as principal and the sureties of his bond for the recovery of said amounts due by said officer, and all costs of suit in some court of competent jurisdiction, in Travis County, Texas.

Art. 14.10. Deposits

Each association shall place with the State Treasurer through the Board of Insurance Commissioners a deposit equal to the largest risk assumed on any one life or person, which may be in cash or in convertible securities subject to approval by the Board. Such deposit shall be liable for the payment of all final judgments against the association, and subject to garnishment after final judgments against the association. When such deposit becomes impounded or depleted it shall at once be replenished by the association, and if not replenished immediately on demand by the Board, the association may be regarded as insolvent and dealt with as hereinafter provided.

When any association shall desire to state in advertisements, letters, literature or otherwise, that it has made a deposit with the Board as required by law, it must also state in full the purpose of the deposit, the conditions under which it is made, and the exact amount and character thereof.

Art. 14.11. Membership

Membership in the association shall be confined to persons qualified under the provisions of the by-laws. Such membership shall equal the qualifying membership at all times and failure to maintain such, the association shall be considered insolvent and dealt with as hereinafter provided.

Art. 14.12. Books and Records

All the records and books of each association shall be kept in the shape, form and manner acceptable to the Board, and if such records and books of any association are kept in such manner as not to reflect truly and accurately the condition of the association, or the facts essential to its faithful and effective operation, the association shall at once adopt forms or systems acceptable to the Board which will serve the purpose most effectively.

Art. 14.13. Records; Merging of Membership

Each association shall keep a complete and correct roster of its members with proper statistical records for the purpose of determining proper cost of insurance, by ages or otherwise, and shall keep accurate records of groups, classes or clubs or other division of memberships, if any; and shall keep records to show amounts paid in on assessments by each member and each group; and as to groups, must show how the funds are distributed between expense and mortuary or relief funds, and showing the amounts paid out of the funds of the whole membership or each group in death claims or other benefits.

The associations subject to this chapter are hereby expressly prohibited from merging with another association, are prohibited from "transferring" any part or group of membership, or all the membership to another association or from merging groups or transferring members from one group to another in an association without the consent in advance of the Board of Insurance Commissioners which may be given only after complete investigation into the facts and determination that such transfer or merger is to the advantage of members of the association or groups to be affected.

Art. 14.14. Amendment of Charter

Any amendment to the charter of an association operating under this chapter changing the name of the association, must be submitted to the Board of Insurance Commissioners for approval; and the charter of any association operating under this chapter may not be amended to provide for changing its name to a name that is determined by the Board of Insurance Commissioners to be confusing and misleading to the public.

Art. 14.15. Annual Statement

On or before the first day of March of each year each association operating under the provisions of this chapter shall file with the Board of Insurance Commissioners complete and full sworn statement of its financial condition on the thirty-first day of December next preceding. Such statement shall plainly exhibit all real and contingent assets, and all liabilities and an account of income and disbursements to and from the mortuary fund during the year, and on blanks which the Board shall furnish for the making of such annual statements. Upon examination of said report the Board of Insurance Commissioners, if such report shows that the corporation is in all things complying with this law shall issue such corporation a certificate of authority to transact its business in this State for the year next succeeding the filing of said report.

Art. 14.16. Examination.

In addition to the annual report required by this chapter, the Chairman of the Board of Insurance Commissioners shall, once in every two (2) years or oftener if he deems it advisable, require the books, records, accounts, and affairs of any corporation or association qualifying and

acting under this chapter to be examined and audited by an accountant or accountants or examiner designated and commissioned by him. For the purpose of any examination, the Chairman of the Board and the auditors and examiners shall have free access to all books, records, papers, and accounts of the corporation; and the cost for the time required in making such examination and audit and all necessary expenses in connection therewith shall be paid by the corporation upon presentation of a bill showing the charges made by the Department, which shall include the salaries, traveling expenses, hotel bills, and other expenses of such auditors and/or examiners, together with all other expenses in connection with such examination. Each corporation or association shall be charged with the salary of the auditors and examiners for the time required in making such examination and the time required in connection with going to and coming from the place or places necessary in connection with such examination, together with all expenses incurred by such auditors and/or examiners, and in addition thereto such corporation or association shall be charged by the Board with an amount equal to the salaries of the actuary, examination clerk or clerks, stenographers, and all other employees employed in connection with the examination work in the Department for the time said employees are performing duties in connection with the examination of each corporation so examined.

The amounts so collected shall be paid into the Examination Fund of the State Treasury Department and paid out in accordance with the general examination laws.

The Chairman of the Board of Insurance Commissioners or his deputy or any examiner shall have the right to require any officer, agent, or employee of any company or association operating under this law, or any other person, to be sworn and to answer under oath any questions regarding the affairs or activities of said association or company, and said Chairman of the Board, his deputy, and/or any examiner or auditor is hereby authorized to administer such oath.

Art. 14.17. Certificate of Authority Required; Exemptions

It shall be the duty of the Board of Insurance Commissioners to require any corporation, person, firm, association, local mutual aid association, or any local association, company, or organization to have a certificate of authority before being authorized to carry on any insurance business in this State. If, in any event, any such company, person, firm, association, corporation, local aid association, or local organization is writing any form of insurance whatsoever without a permit or certificate of authority issued by the Department of Insurance of Texas, it shall be the duty of the Board to make known said fact to the Attorney General of the State of Texas, who is hereby required to institute proceedings in the District Court of Travis County, Texas, to restrain such corporation, person, firm, association, company, local aid association, or organization from writing any insurance of any kind or character without a permit; provided no provision of this and the preceding article shall be construed to apply to associations which limit their membership to the employees and the families of employees of any particular designated firm, corporation, or individual, and which are not operated for profit and which pay no commissions to anyone and whose operating expenses do not exceed One Hundred (\$100.00) Dollars per month; provided, however, that all such associations shall make annual reports to the Department of Insurance on blanks furnished for that purpose, showing the financial condition, the receipts and expenditures, and such other facts as the Board of Insurance Commissioners may require. No such association shall be permitted to operate, however, without making report to the Insurance Department of the State of Texas and securing a

permit to so function. Such permit shall be for the current year or fractional part thereof and shall expire on the thirty-first day of May thereafter and shall be renewed annually upon the approval of the financial statement of the organization by the Board of Insurance Commissioners.

Art. 14.18. Policies or Certificates.

Every policy or certificate of insurance issued by an association shall state definitely on the front page the amount of death benefit to be paid, and the circumstances or conditions under which it shall be paid shall be plainly stated in the policy. Every health, accident or other benefit shall be plainly stated in the policy, and the terms and conditions under which they shall be paid shall be stated plainly in the policy.

An application for each certificate must be signed by the applicant, unless the applicant is a minor, in which event the application may be signed by a parent or guardian; and a copy thereof must be attached to and made part of such certificate. If the certificate is to provide that misstatement as to the health or physical condition of the applicant may void the policy within the contestable period, the application shall so state in not less than ten point type in language acceptable to the Board. All statements in the application shall in the absence of fraud be regarded as representations and not warranties.

All conditions of the certificate must be stated thereon, including such portions of the by-laws of the association as may affect the insurance rights of the parties in any material way; and amendments to the by-laws which might affect such rights of members must forthwith be mailed by first-class mail to each certificate holder affected. In case of controversy the burden of proof shall be on the company to prove the amendment was mailed to the member. Each certificate must provide that it shall be incontestable, after having been in force during the lifetime of the insured for a period of two years from date of issue, except for non-payment of dues or assessments. It shall also provide that in case the age of the insured is misstated, the amount of insurance shall be that which the premium actually paid would purchase at the correct age, based on rates in force at the time of the death of the insured. No certificate issued by such association, nor any application for the certificate shall contain language or be in such form as to mislead the applicant or the policyholder as to the type of insurance afforded.

It shall be unlawful for any association to assume liability on a life insurance risk on any one life in an amount in excess of Five Thousand (\$5,000.00) Dollars.

Every certificate issued must be approved by the Board as to form and language before it is used by an association. It is not mandatory that these forms be uniform for all associations, but the Board is directed to bring about as great uniformity as is feasible as early as practicable by cooperation with the several associations. All certificate forms hereafter used must be in accord with the provisions of this chapter and with all other laws regulating such associations as are embraced in this chapter.

Art. 14.19. Renewals of Certificates

In case a certificate shall terminate for any reason, and in case it shall be a rule of the association that all reinstated certificates shall be regarded as new certificates, then the application for reinstatement shall carry the statement in at least ten point type that the same rules apply to it as to the original certificate, and that it can be invalidated within the contestable period for false statements respecting the health or physical condition of the applicant, or other matters material to the risk. A true

and correct copy of the application for reinstatement shall be mailed by first-class mail to the certificate holder upon the reinstatement of the certificate. In case of controversy the burden of proof shall be on the association to prove the copy of reinstatement application was mailed to the member. In the event a renewal certificate is issued, such renewal certificate shall have a copy of the application for reinstatement attached and made a part thereof.

It is specifically provided, however, that in case an association shall renew or reinstate a certificate after termination, the payments by the reinstated member shall be divided between the funds in the same percentage as is required of regular payments in the particular by-laws, unless nine (9) months have elapsed between termination and reinstatement. If nine (9) months have elapsed between termination and reinstatement, a reinstatement fee not in excess of the membership fee may be charged and placed in the expense fund. Furthermore, in case of renewal or reinstatement, the renewal or reinstatement certificate shall not be contestable for any cause except nonpayment of assessments for longer than six (6) months from date thereof, unless the reinstatement or renewal is within the original two (2) year contestable period, in which case the same may be extended for six (6) months from the date on which it would have originally expired.

Art. 14.20. Reduced Benefits or Excluded Coverage on Life Policies; Health and Accident Policies Excluded

Sec. 1. Any company or association licensed and operating under this chapter, may with the approval of the Board of Insurance Commissioners issue policies providing for reduced benefits when death or injury occurs while the insured is engaged in military, naval, aerial service, or aerial flight in time of peace or war; or in case of death of the member by his own hand while sane or insane; or while engaged in certain hazardous occupations to be named in the policy; or if death of injury is caused by mob violence or legal execution; or reduce or exclude benefits for sickness from certain named causes. Attention shall be called on the front page of the policy to any reduction or exclusion of benefits provided herein, and the circumstances or conditions under which reduction or exclusion of benefits are applicable shall be plainly stated in the policy. The provisions of this section shall apply to all outstanding policies already containing such limitations.

Sec. 2. The provisions of Section 1 of this article shall not apply to health and accident policies.

Art. 14.21. Policies May be Issued at Stipulated Rate; May Provide for Deduction of Unpaid Balance of Annual Premium from Benefits

Any insurance company or association licensed by the Board of Insurance Commissioners to operate under this chapter may issue policies on the stipulated or specified premium plan which allows the insured the privilege of paying regular premiums weekly, monthly, quarterly, semi-annually, or annually, as he may choose from time to time. Such policies may also provide that upon the maturity of benefits payable under the policy or certificate any balance of premium for the current policy year remaining unpaid shall be deducted from the benefits payable. The provisions of this article shall apply to all outstanding policies already containing such a provision.

Art. 14.22. Certificates Subject to Constitution, By-Laws

Certificates issued by an association shall state that said certificate is issued subject to all the terms of the constitution and by-laws of the

association then in force and as the same might thereafter be amended and that said certificate shall be governed by such by-laws and constitutional provisions that the Board of Insurance Commissioners shall theretofore and thereafter approve.

Art. 14.23. Assessments; Rate Schedules

Each association shall levy regular and periodical assessments by whatever name they may be called. These assessments must be in such amounts and at such proper intervals as will meet the reasonable operating expenses of the association, and pay in full the claims arising under its certificates. When or if in the course of operation it shall be apparent that the claims cannot be met in full from current assessments and funds on hand, the amount must be increased until they are adequate to meet such claims, and the Board shall so order.

When any association shall refuse to comply with the Board's recommendations or requirements respecting rates of assessments, it shall be treated as insolvent, and shall be dealt with as is hereinafter provided.

Each association operating under the provisions of this chapter shall file its rate schedules with the Board of Insurance Commissioners.

Art. 14.24. Revenues from Fees and Assessments

The funds of the association shall be derived from membership fees and assessments. Assessments shall be made upon the membership to meet benefit claims and for surplus funds and for expenses. Calls for assessments must specify the purpose for which made. Before suspending any member from membership it shall be necessary for the association to mail a notice, by first-class mail, to the member, which notice shall state the final date of payment. All funds collected that belong to the association shall be deposited within five (5) days in a state or national bank.

Art. 14.25. Funds

Assessments when collected shall be divided into at least two (2) funds. One (1) of these shall be the mortuary or relief fund, by whatever name it may be called in the different associations, from which claims under certificates shall be paid, and to a limited extent the cost of defending contested claims, and nothing else; and the other funds shall be the expense funds from which expenses may be paid. At least sixty (60%) per cent of assessments collected except the membership fee, must be placed in the mortuary or relief fund. The mortuary or relief funds may be invested only in such securities as are a legal investment for the reserve funds of stock life insurance companies.

Such association shall provide in its by-laws for the portion of its assessments to be allotted to the mortuary or relief fund and may provide for the payment out of said mortuary or relief fund of attorneys' fees and necessary expenses arising out of the defense, settlement, or payment of contested claims. Any such payments out of the mortuary or relief fund for other than claims shall be subject to approval of the Board of Insurance Commissioners.

A separate record shall be kept of the mortuary or relief funds of each group, club, or class, and the mortuary or relief funds of one group, club, or class shall not be used to pay the claims or obligations of any other group, club, or class.

Art. 14.26. Investments

Any surplus funds on hand belonging to any such association must be invested, if at all, in such securities as the funds of stock life, health and accident insurance companies may be invested in.

Art. 14.27. Groups or Class of Members

The constitution and by-laws of each association shall state the number of members to be admitted in a class or group of the association. Accounts of the mortuary assessments of the several classes shall be kept separately, and the funds of one group or class shall not be used to pay claims for any other classes.

In the creation of a new group, club, or class, an association may have six (6) months from the date of its creation within which to build said group, club, or class up to the required membership to pay claims in full, provided in the interim the certificates provide for no more than a Five Hundred (\$500.00) Dollar benefit, unless the association has funds out of which it may lawfully make and actually does make the full payment of benefits in the interim. Creation of any new group shall be subject to advance approval by the Board of Insurance Commissioners.

Art. 14.28. Beneficiaries

The payment of death benefits shall be confined to the wife or husband of a member, or relatives by blood to the fourth degrees, or by marriage to the third degree, or to persons actually dependent upon the member, and creditor, estate or any one having an insurable interest or any purely charitable or religious institution.

The interest of a beneficiary in a life insurance policy or contract heretofore or hereafter issued shall be forfeited when the beneficiary is the principal or an accomplice in willfully bringing about the death of the insured. When such is the case the nearest relative of the insured shall receive said insurance.

Art. 14.29. Payment of Claims

It is the primary purpose of this chapter to secure to the members of the associations and their beneficiaries the full and prompt payment of all claims according to the maximum benefit provided in their certificates. It is therefore required of all associations that all claims under certificates be paid in full within sixty (60) days after receipt of due proof of claims.

Written notice of claim given to the association shall be deemed due proof in the event the association fails upon receipt of notice to furnish the claimant, within fifteen (15) days, such forms as are usually furnished by it for filing claims.

Any association which shall become unable to pay its valid claims in full within sixty (60) days after due proofs are received, shall for the purpose of this chapter be regarded as insolvent, and dealt with as is more fully provided hereinafter.

Art. 14.30. Contests

It shall not be unlawful for an association to contest claims for valid reasons; but claims may not be contested for delay only or for captious or inconsequential reasons, or to force settlement at less than full payment. Therefore, if liability is to be denied on any claim, the association is hereby required to notify the claimant within sixty (60) days after due proofs are received that the claim will not be paid, and failing to

do so, it will be presumed as a matter of law that liability has been accepted.

The Board shall cancel the certificate of authority of any association found to be operating fraudulently or improperly contesting its claims.

Reports regarding the costs of contests must be made under oath of an officer of the association, with the annual report of all associations to the Board.

Art. 14.31. Assessment-as-Needed Groups

The provisions of this chapter requiring the full payment of claims shall not apply to any groups, club, or class previously organized and now operating on the post-mortem or assessment-as-needed plan and any association having such a group, club, or class may continue to operate it on said plan so long as any such group, club, or class has a sufficient membership at the assessment rate charged to produce, and so long as it does produce, for the mortuary or relief fund at least fifty (50%) per cent of the maximum value of the largest policy in said group, club, or class. In the event the membership of any group, club, or class is only sufficient in number to pay between fifty (50%) per cent and one hundred (100%) per cent of the maximum value, it shall be the duty of the officer of said association to have printed on each assessment notice the percentage of the maximum value of the certificate actually paid on the last death claim in said group, club, or class. Provided further, that no association and no group, club, or class in any association shall hereafter be organized to operate on the post-mortem or assessment-as-needed plan.

If on any assessment the amount realized is not sufficient to pay fifty (50%) per cent of the face of the certificate, the association shall be deemed insolvent and dealt with as hereinafter provided.

The benefits to be paid by such association shall be dependent upon the amount realized from assessments upon the membership, and the certificates issued shall so provide; and the certificates shall also state the maximum to be paid.

Art. 14.32. Payments on Certificates Already in Force

If the payments of the members of any association coming within the scope of this chapter on certificates issued and in force when this code takes effect, or the reinsurance or renewals of such certificates, shall prove insufficient to pay matured death and disability claims in the maximum amount stated in such policies or certificates, and to provide for the creation and maintenance of the funds required by its by-laws, such association may with the approval of the Board of Insurance Commissioners and after proper hearing before said Board provide for meeting such deficiency by additional, increased, or extra rates of payment. The members may be given the option of agreeing to reduced maximum benefits, or of making increased payments.

Art. 14.33. Insolvency; Conservatorship; Receiver

If, upon an examination or at any other time, it appears to the Board of Insurance Commissioners that such association be insolvent, or its condition be, in the opinion of the Board, such as to render the continuance of its business hazardous to the public, or to holders of its certificates, or if such association appears to have exceeded its powers or failed to comply with the law, or has a membership of less than five hundred (500) paying their assessments, then the Board shall notify the association of its determination and said association shall have thirty (30) days under the supervision of the Board within which to comply with the requirements of the Board; and in the event of its failure to comply.

within such time, the Board, acting for itself, or through a conservator appointed by the Board for that purpose, shall immediately take charge of such association, and all of the property and effects thereof.

If the Board is satisfied that such association can best serve its policyholders and the public through its continued operation by the conservator under the direction of said Board, pending the election of new directors and officers by the membership in such manner as the Board may determine, the same shall be done. If the Board, however, is satisfied that such association is not in condition to satisfactorily continue business in the interest of its policyholders under the conservator as above provided, the Board shall proceed to reinsure the outstanding liabilities in some solvent association or company, authorized to transact business in this State, or the Board shall proceed through such conservator, to liquidate such association, or the Board may give notice to the Attorney General who shall thereupon apply to any court in Travis County having jurisdiction thereof for leave to file a suit in the nature of quo warranto to forfeit the charter of such corporation or to require it to comply with the law or to satisfy the Board as to its solvency. The court may, in its discretion, appoint agents or receivers to take charge of the effects and wind up the business of the corporation, under usages and practices of equity, and may make disposition of the business and membership of the corporation as in the discretion of the court may seem proper. No suit for receiver shall be filed against any such corporation, nor shall any receiver be appointed, except upon the application therefor by the Attorney General, and in no event shall any receiver for any such corporation be appointed until after reasonable notice has issued and a hearing had before the court.

It shall be in the discretion of the Board to determine whether or not it will operate the association through a conservator, as provided above, or proceed to liquidate the association, or report it to the Attorney General, as herein provided.

When the liabilities of an association are reinsured or liquidated, as herein provided, the Board shall report the same to the Attorney General, who shall take such action as may be necessary to effect the forfeiture or cancellation of the charter of the association so reinsured or liquidated. Where the Board lends its approval to the merger, transfer, or consolidation of the membership of one association with that of another, the same shall be reported to the Attorney General who shall proceed to effect the forfeiture or cancellation of the charter of the association from which the membership was merged, transferred or consolidated, in the same manner as is provided for the charters of associations reinsured or liquidated. No merger or transfer shall be approved unless the association assuming the members transferred or merged is operating under the supervision of the Board of Insurance Commissioners. The cost incident to the conservator's services shall be fixed and determined by the Board and shall be a charge against the assets and funds of the association to be allowed and paid as the Board may determine.

Art. 14.34. Service of Process

In any lawsuit brought against an association operating under this chapter, service of citation shall be had upon the president, any acting vice-president, secretary, or general manager of said association or upon the Chairman of the Board of Insurance Commissioners, which service upon the Chairman shall be within the time required for service upon individuals. The Board when served with citation for such association shall forthwith transmit the same by registered mail to the association at the post office address as designated in records on file with the Board of Insurance Commissioners.

Art. 14.35. Venue

In all actions brought against corporations operating under and subject to this chapter growing out of or based upon any right of claim or loss or proceeds due, arising from or predicated upon any claim for benefits under any policy or contract of insurance issued by such corporation, venue shall lie in the county where the policyholder or beneficiary instituting such suit resides or in the county of the principal office of such corporation.

Art. 14.36. Special Disability Provision

If any of the provisions of this chapter may appear obscure when applied to health, accident or disability provisions in certificates issued by associations authorized to issue health, accident or disability certificates, then the Board is directed to interpret same in accord with the expressed purpose and spirit of this chapter looking to the full payment of claims, and at the same time preserving to members the benefit of the protection afforded by such association.

Art. 14.37. Burial Association

Any individuals, firms, co-partnerships, corporations or associations doing the business of providing burial or funeral benefits, which under any circumstances may be payable partly or wholly in merchandise or services, not in excess of One Hundred and Fifty (\$150.00) Dollars, or the value thereof, are hereby declared to be burial companies, associations or societies, and shall organize under provisions of Chapter 12, and shall operate under and be governed by Chapter 12 and this chapter. It shall be unlawful for any individual, individuals, firms, co-partnerships, corporations, or associations, other than those defined above, to engage in the business of providing burial or funeral benefits, which under any circumstances may be paid wholly or partly in merchandise or services.

Art. 14.38. Certificate of Burial Associations

Policies or certificates issued by burial associations shall provide for payment of the benefit in certain stipulated merchandise and burial service, which shall be scheduled in the policy or certificate and approved by the Board of Insurance Commissioners as being of the reasonable value as stated in the face of the policy, unless the insured shall at the time said policy is issued elect to have same paid in cash. The policy shall show in writing the election made. If the association issuing said policy shall fail or refuse to furnish the merchandise and services provided for in the policy same shall be paid in cash.

Art. 14.39. Rules and Regulations

The Board is hereby authorized to promulgate reasonable rules and regulations to carry out the purposes of this chapter.

Art. 14.40. Burial Association Rate Board

There shall be a Board, heretofore created, to be known as the "Burial Association Rate Board," to be composed of seven (7) members of which the Life Insurance Commissioner shall be an ex-officio member and Chairman. The other six (6) members shall be appointed by the Governor by and with the advice and consent of the Senate. Each of said six (6) members shall be an officer or director of a burial association and shall have had three (3) years experience as such prior to his appointment. The present terms of the appointed members of the Board shall expire June 21, 1955, as to the two (2) members appointed for the original two

(2) year term; June 21, 1951, as to the two (2) members appointed for the original four (4) year term and June 21, 1957, as to the two (2) members appointed for the original six (6) year term, and thereafter, such terms shall run for six (6) years so that such memberships shall run for six (6) years and two (2) of such memberships shall expire every two (2) years. The appointed members in office at the effective date of this code shall continue in office until the 21st day of June of the years in which their present respective terms expire and until their successors are appointed and qualified. Upon their appointment, each member shall take and subscribe to the Constitutional Oath of Office and file same with the Secretary of State. Members of this Board are specifically exempted from the provisions of Article 1.09 of this code.

Art. 14.41. Compensation; Expenses

As compensation for their services, each member of said Burial Association Rate Board shall receive Ten (\$10.00) Dollars per day for each day actually and necessarily used in attending and going to and returning from Board meetings plus their reasonable traveling and hotel expenses. Same shall be paid from the funds herein provided for upon vouchers drawn by the Secretary of the Board and countersigned by its Chairman, but provided no appropriation shall ever be made to defray the expenses of said Board except from the fund herein created; provided however, that no more than One Thousand Five Hundred (\$1,500.00) Dollars shall be expended in any single year for per diem expenses of said Board.

Art. 14.42. Annual Assessment; Burial Association Rate Fund

There is here now levied upon each burial association having a permit to do business in Texas and upon each burial association which may hereafter be granted a permit to do business in Texas, an annual assessment of one-half of one cent ($\frac{1}{2}$ of 1¢) per member in the association as of December thirty-first of each year but not less than Five (\$5.00) Dollars annually, which shall be in addition to any other fees now payable and which assessment shall be paid by each association between January first and March first of each year. Said assessments shall be paid to the Board of Insurance Commissioners of Texas along with and at the same time each association files with said Board its annual statement. Said assessment shall be based upon the calendar year and a proportionate part of said assessment for the remaining part of the current calendar year. All assessments paid to the Board of Insurance Commissioners under this article shall be and the same are here and now appropriated for and to the use and benefit of the Life Insurance Division of the Board of Insurance Commissioners; first, for the payment of the per diem and expenses of the Burial Association Rate Board including Seventy-five (\$75.00) Dollars per month as compensation to the ex-officio member and Chairman of the Board for additional duties incident to Articles 14.40 to 14.52, inclusive, which shall be in addition to his compensation as Life Insurance Commissioner; and second, the balance of such fund may be expended under direction of the Board herein created for the purpose of obtaining advice, information, and knowledge relative to adequate and reasonable rates to be charged by burial associations of Texas and compiling records thereof. All assessments collected under this article shall be deposited in the State Treasury as a special fund to be known as the Burial Association Rate Fund to be used as and for the purposes aforesaid and are here and now appropriated for such purposes for the balance of the fiscal year ending August 31, 1951, provided, however, that thereafter such assessments shall continue to be expended un-

der such limitations as the Legislature may designate in the general departmental appropriation bill.

Art. 14.43. Meetings

Said Board shall organize and elect one of its members as Vice-Chairman and one as Secretary and shall proceed with its duties. Such Board may adjourn its meeting from time to time and shall always be subject to call by its Chairman or by a written call signed by a majority of its members. Its meetings shall be held at the office of the Board of Insurance Commissioners of Texas or such other place as the Chairman of the Board may designate.

Art. 14.44. Experience Rating; Rate Schedules Fixed

It shall be the duty of said Board to make and file with the Board of Insurance Commissioners of Texas a schedule of reasonable and adequate rates, giving the maximum and minimum rates which may be charged per week, per month, per quarter, per six (6) months and per annum by burial associations for the definite benefits at the definite ages, which ages will be in convenient groups as designated by said Rate Board. Such schedule of rates shall be made and filed only after hearing, notice of which shall be sent by the Rate Board by first class mail to each burial association within this State not less than ten (10) days before the hearing. To insure the adequacy and reasonableness of rates the Rate Board may take into consideration experience gathered from a territory within this State sufficiently broad to include the varying conditions of the risks involved and over a period sufficiently long to insure that the minimum and maximum rates determined therefrom shall be just and reasonable as they may apply to the insuring public, and adequate and non-confiscatory as they may apply to the burial associations. The Rate Board is hereby authorized and empowered to require sworn statements from any burial association within this State showing its experience in assessments collected and claims paid over a reasonable period of time and such other information as the Rate Board shall find to be necessary or helpful in making the maximum and minimum rate schedules. After said rate schedules have been so fixed and filed with the Board of Insurance Commissioners of Texas, said last named Board shall cause to be mailed a copy of such rate schedule to each burial association having a permit to do business in Texas.

Art. 14.45. Adoption and Filing of Rate Schedule by Associations

After such rate schedule has been so mailed by the Board of Insurance Commissioners of Texas, it shall be the duty of the officers and directors of each burial association to convene and to fix and adopt a rate schedule to be thereafter used and charged by such association for the different benefits at the different ages and which schedule shall use the same age groups and benefits as is given in the rate schedule so mailed to it by the Board of Insurance Commissioners of Texas and which rates so adopted shall not be less than the minimum nor more than the maximum rates so fixed by the Burial Association Rate Board. Each burial association shall file with the Board of Insurance Commissioners, duplicate copies of the rate schedule so fixed and adopted by it and which rate schedule must be so filed at least within thirty (30) days from the date the rate schedule was so mailed by the Board of Insurance Commissioners. Such copy shall be endorsed by the Board of Insurance Commissioners showing the date of its filing and one of such copies shall be retained by the Commission and the other copy returned to the association to be

kept as a part of its permanent files. With the consent of the Board of Insurance Commissioners an association may change its rates by adopting and filing with the Board of Insurance Commissioners, a new rate schedule in all respects similar to the first schedule but in each instance each rate must be within the maximum and minimum as promulgated by the Burial Association Rate Board.

Art. 14.46. Violation as to Rates; Penalties

It shall be unlawful for any burial association, its officers, agents, or employees to charge, receive, or collect any rate, premium, or assessment from any member of said association other than the rate, premium, or assessment applicable for the age and benefit as named in said association's rate schedule on file with the Board of Insurance Commissioners and in force at that time. Any officer, agent, or employee of any burial association who charges, receives, or collects any premium or assessment in violation of this article, or any officer, of any burial association who knowingly permits it to be done, shall be guilty of misdemeanor and upon conviction shall be fined not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars. The Board of Insurance Commissioners may cancel the permit of any burial association violating the provisions of this article.

Art. 14.47. Data for Fixing Rates

It shall be the duty of said Burial Association Rate Board to gather such data, statistics, and information as it can from time to time as to the death rates, lapses, experiences and other information relative to burial association rates within, and without the State of Texas as may be deemed beneficial in fixing reasonable and adequate burial association rates and which information may be disseminated by the Board among the burial associations of Texas.

Art. 14.48. Limitation on Board's Power; Amendment of Schedules

The Rate Board's duties and power shall not cease upon the filing of its first rate schedule, but it shall continue to study the statistics, rates, and experiences of burial associations and at any time it deems proper, it may make, adopt and file with the Board of Insurance Commissioners, a new rate schedule or amendment to a previous schedule and when any such amendment or new schedule is so filed, it shall thereafter be considered the official rate schedule of burial associations. When so filed, copy thereof, shall be forwarded by the Board of Insurance Commissioners of Texas, its rate schedule to be thereafter used by it as to members thereafter accepted and such procedure shall be followed from time to time, when and as often as the Burial Association Rate Board shall make and file an amended or new rate schedule for the State.

Art. 14.49. Rates Used Prior to this Law

Rates which were adopted and in use by any association prior to June 12, 1947, may be continued to be used by such burial association as to its then members, but with the consent and approval of the Board of Insurance Commissioners of Texas, any association may change such rates and make the same comply and correspond with the rate schedule last filed by such association with the Board of Insurance Commissioners as herein designated.

Art. 14.50. No Connection Between Associations

There shall be no connection directly or indirectly between two (2) or more burial associations. No member, director, or officer of one burial association shall be a member, director, or officer of any other burial association. No person whose husband, wife, or employee is an officer or director of one burial association shall be an officer or director of any other burial association. No funeral director, undertaker, or funeral home directly or indirectly connected with or designated by one burial association as its funeral director, undertaker, or funeral home shall be connected with or designated by any other burial association as its funeral director, undertaker, or funeral home to furnish its members with its services and/or merchandise or to service its policies or to be in any manner connected with its affairs.

Art. 14.51. Affiliation with Funeral Home; Rules and Regulations

It is against the public policy of this State for a funeral home or for those who own it in whole or in part to be connected directly or indirectly or affiliated with more than one burial association and the provisions of Articles 14.40 through 14.52 of this chapter shall be liberally construed and the Board of Insurance Commissioners shall make such rules and regulations as may be necessary to carry out the spirit and purpose of this article.

Art. 14.52. Payment in Lieu of Merchandise and Services

If a burial association is not given the opportunity to provide the merchandise and services stipulated in the policy it shall be required to pay not less than the total amount paid into its mortuary fund for account of said policy in lieu of the stipulated merchandise and services unless a greater per cent of the face value is specified in the policy.

Art. 14.53. Mortuary or Relief Funds; Taxes on Income

Any company or association operating under the provisions of this chapter, 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.

Art. 14.54. Mutual Fire Insurance Companies Not Affected

Nothing in this chapter shall ever be construed to include or affect in any manner mutual fire insurance companies.

Art. 14.55. Penalty; Unlawful Conversion

If any director, officer, agent, employee, attorney at law or attorney in fact, of any association under this chapter, shall fraudulently take, misapply or convert to his own use any money, property or other thing of value belonging to such association, that may have come into his custody, control, possession or management by virtue of his office, directorship, agency, or employment, or in any other manner, or shall secrete the same with intent to take, misapply or convert the same to his own use, or shall pay or deliver the same to any person knowing that he is not entitled to receive it, he shall be confined in the penitentiary not less than two (2) nor more than ten (10) years.

Art. 14.56. Penalty; Diversion of Special Funds

If any director, officer, agent, employee, attorney at law, or attorney in fact of any association under this chapter, shall willfully borrow, withhold or in any manner divert from its purpose, any special fund or any

part thereof, belonging to or under the control and management of any association under this chapter, which has been set apart by law or by any valid rule or regulation of the Board of Insurance Commissioners of the State of Texas for a specific use, he shall be confined in the penitentiary not less than two (2) nor more than ten (10) years.

Art. 14.57. Penalty; False Reports

The Board of Insurance Commissioners shall have the power and authority to compel written reports from such association as to the condition of such association whenever deemed advisable by the Board. The Board may require that such report be verified by the oath of a responsible officer of the association. If any officer, director, agent, employee, attorney at law or attorney in fact, of any association under this chapter shall willfully make any false affidavit in connection with the requirements of this chapter, he shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not to exceed two (2) years, or by confinement in the penitentiary not to exceed two (2) years.

Art. 14.58. Penalty; Violation of Board Order

If any director, officer, agent, employee, or attorney at law or attorney in fact of any association under this chapter, shall willfully refuse or fail to comply with any lawful order of the Board of Insurance Commissioners of this State he shall be punished by fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment.

Art. 14.59. Penalty; Violation of Other Provisions of Chapter

If any director, officer, agent, employee or attorney at law or attorney in fact of any association under this chapter, or any other person, shall violate any of the provisions of this chapter not specifically set out in Articles 14.55, 14.56, 14.57, 14.58 and 14.46 of this chapter, he shall be punished by fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment.

Art. 14.60. Fees Appropriated

Effective with this code, all fees paid to the Board of Insurance Commissioners by all associations regulated by this chapter shall be and the same are here and now appropriated for the balance of the fiscal year ending August 31, 1951, to the use and benefit of the Life Insurance Division of the Board of Insurance Commissioners, to be used by the Life Insurance Commissioner for the purpose of enforcing and carrying out the provisions of this chapter and other laws relating to the regulation and supervision of such associations; provided, however, that such fees shall continue to be expended under such limitations as the Legislature may designate in the general departmental appropriation bill; such fees to be deposited in the State Treasury as a special fund to be used as and for the purposes aforesaid.

Art. 14.61. Conversion or Reinsurance of Domestic Local Mutual Aid Associations, etc., into Legal Reserve Companies

Sec. 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 11 of this code, or be reinsured by any legal reserve insurance company operating under the provisions of Chapter 3 of this code by conforming to the provisions of this article. 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 article and the other laws of this State regulating the incorporation 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 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 article or in the provisions of Chapter 11 or Chapter 3 of this code 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 article is purely permissive and if such associations do not so voluntarily decide to come under this article, or laws amended by it, then this article shall not in any way apply to such association.

Art. 14.62. Reinsurance

Companies and associations operating under the provisions of this Act may enter into reinsurance contracts or agreements with legal reserve companies authorized to write life, health, and accident insurance in this State with capital or surplus of at least One Hundred Thousand Dollars (\$100,000), and pay the premiums for such reinsurance out of the mortuary or claim funds. Provided, that such reinsurance contracts or agreements shall be subject to the approval of the Board of Insurance Commissioners of Texas, and that no company or association shall pay more out of its mortuary or claim fund for such reinsurance than is currently received by the mortuary or claim fund on the policies or members reinsured. Within thirty (30) days from the effective date of this Act, the Board of Insurance Commissioners shall issue instructions outlining the conditions under which such contracts or agreements will be approved.

The provisions of Senate Bill No. 8, Acts 1951, 52nd Leg., p. 246, ch. 144, amending Article 5068—1 of Vernon's Texas Statutes, were included in the enrolled bill of Senate Bill No. 236, Article 14.62, constituting the Insurance Code, by the Enrolling Clerk of the Senate pursuant to House Concurrent Resolution No. 179.

CHAPTER FIFTEEN

MUTUAL INSURANCE COMPANIES OTHER THAN LIFE

Art.

- 15.01. Who May Incorporate.
- 15.02. Articles of Incorporation.
- 15.03. Name of Company.
- 15.04. Certificate of Incorporation.
- 15.05. Powers and By-Laws.
- 15.06. Kinds of Insurance.
- 15.07. Meet Same Legal Requirements of Other Companies Writing Bonds.
- 15.08. Conditions to Obtain License.
- 15.09. Corporation May Contract With.
- 15.10. Votes of Members.
- 15.11. Provisions of Policy.
- 15.12. May Advance Money.
- 15.13. Reserves.
- 15.14. Foreign Mutual Company.
- 15.15. Subject to General Laws.
- 15.16. No Exemption from General Laws.
- 15.17. Reinsurance.
- 15.18. Taxes and Fees.
- 15.19. Rights and Privileges of Certain Companies Retained.
- 15.20. Provisions Controlling as to Mutual Insurance.

Art. 15.01. Who May Incorporate

Any number of persons not less than twenty (20), a majority of whom shall be bona fide residents of this State, by complying with the provisions of this chapter, may become, together with others who may hereafter be associated with them or their successors, a body corporate for the purpose of carrying on the business of mutual insurance as herein provided.

Art. 15.02. Articles of Incorporation

Any person proposing to form any such company shall subscribe and acknowledge articles of incorporation specifying:

- (a) The name, the purpose for which formed, and the location of its principal or home office, which shall be within this State;
- (b) The names and addresses of those composing the board of directors in which management shall be vested until the first meeting of members;
- (c) The names of places of residence of the incorporators.

Art. 15.03. Name of Company

No name shall be adopted by such company which does not contain the word "mutual," or which is so similar to any name already in use by any such existing corporation, company or association, organized or doing business in the United States, as to be confusing or misleading.

Art. 15.04. Certificate of Incorporation

Such articles of incorporation shall be submitted to the Board of Insurance Commissioners who shall submit them to the Attorney General for examination, and if such articles are prepared in accordance with

this chapter, the Attorney General shall so certify and deliver such articles of incorporation, together with his certificate of approval attached thereto, to the Board, who shall upon receipt thereof issue a certificate of incorporation to the company which shall constitute its authority to commence business and issue policies as hereinafter provided. Such articles of incorporation may be amended in the manner provided for other corporations or as may be provided in said certificate.

Art. 15.05. Powers and By-Laws

The company shall have legal existence from and after the date of issuance of said certificate. The company shall have such powers as are necessary or incident to the transaction of its business. The Board of Directors named in such articles may thereupon adopt by-laws, accept applications for insurance, and proceed to transact the business of such company; provided, that no insurance shall be put into force until the company has been licensed to transact insurance as provided by this chapter.

Art. 15.06. Kinds of Insurance

Any company organized under the provisions of this chapter is empowered and authorized to write any kinds of insurance, which may lawfully be written in Texas, except life insurance. Any such company writing fidelity and surety bonds shall be possessed of a surplus over and above all of its liabilities equal to the capital stock required of a stock insurance company transacting the same kinds of business and shall keep on deposit with the State Treasurer cash or securities approved by the Board equal in amount to that required of domestic stock companies. Mutual insurance companies operating under the provisions of this chapter should be required to charge the rates prescribed by the Board of Insurance Commissioners and be subject to the same rates and reserve supervision that domestic insurance companies are subject to by law.

Art. 15.07. Meet Same Legal Requirements of Other Companies Writing Bonds

Any mutual insurance company qualifying to write bonds under this chapter shall meet the same legal requirements as all other insurance companies who are writing bonds under this chapter.

Art. 15.08. Conditions to Obtain License

No company organized under this chapter shall issue policies or transact any business of insurance unless it shall comply with the conditions following, or until the Board has, by formal license authorized it to do so, which license the Board shall not issue until the corporation has complied with the following conditions:

(a) It shall hold bona fide applications for insurance upon which it shall issue simultaneously, or it shall have in force, at least twenty (20) policies to at least twenty (20) members for the same kind of insurance upon not less than three hundred (300) separate risks each within the maximum single risk described herein;

(b) The "maximum single risk" shall not exceed twenty (20%) per cent of the admitted assets, or three (3) times the average risk or one (1%) per cent of the insurance in force, whichever is the greater, and reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk;

(c) For the purpose of transacting workmen's compensation insurance such company shall have applications from at least fifty employers

for insurance on which policies are to be issued covering not less than two thousand (2,000) employees, each such employee being considered a separate risk; and the provisions with regard to maximum single risk shall not apply;

(d) It shall have collected a premium in advance upon each application the total of which premium shall be held in cash or securities in which stock fire and casualty insurance companies are under the Texas law authorized to invest. It shall have and at all times maintain cash and invested assets of not less than Fifty Thousand (\$50,000.00) Dollars, if it be a casualty insurance company and not less than Twenty Thousand (\$20,000.00) Dollars if it shall be other than casualty insurance company. If at any time the company shall have assets or surplus in less amount than is required for the issuance of policies and the transaction of business upon organization, the company shall cease writing new business and shall immediately report such condition to the Board of Insurance Commissioners which may in its discretion order a reinsurance of the outstanding liabilities of the company in some other company transacting business in this State or proceed to a liquidation of the same.

Art. 15.09. Corporation May Contract With

Any public or private corporation, board or association in this State or elsewhere may make application, enter into agreements for and hold policies in any such mutual insurance company. Any officer, stockholder, trustee or legal representative of any such corporation, board, association or estate may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this State to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred.

Art. 15.10. Votes of Members

Every member of the company shall be entitled to one vote, or to a number of votes based upon the insurance in force, the number of policies held, or the amount of premium paid, as may be provided in the by-laws.

Art. 15.11. Provisions of Policy

The policies shall provide for a premium or premium deposit payable in cash, and except as herein provided for a contingent premium at least equal to the premium or premium deposit. Such a mutual company may issue a policy without a contingent premium while, but only while, it has a surplus equal to the capital required of a domestic stock insurance company transacting the same kinds of insurance, but any such company may issue a policy providing that the holder of any such policy shall be liable for no greater amount than the premium or premium deposit expressed in the policy. If at any time the admitted assets are less than the unearned premium reserve, other liabilities and the required surplus, the company shall immediately collect upon policies with a contingent premium a sufficient proportionate part thereof to restore such assets, provided no member shall be liable for any part of such contingent premium in excess of the amount demanded within one year after the termination of the policy. The Board may, by written order, direct that proceedings to restore such assets be deferred during the time fixed in such order.

Art. 15.12. May Advance Money

Any director, officer or member of such company, or any other person, may advance to such company, any sum or sums of money necessary for the purpose of its business or to enable it to comply with any requirements of the law and such moneys and 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 reserve, other liabilities and lawful surplus, 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 advances shall be reported in each annual statement.

Art. 15.13. Reserves

Such company shall maintain unearned premium and other reserves separately for each kind of insurance, upon the same basis as that required of domestic stock insurance companies transacting the same kind of insurance.

Art. 15.14. Foreign Mutual Company

Any such mutual insurance company organized outside of this State and authorized to transact the business of insurance on the mutual plan in any state, district or territory, shall be admitted and licensed to transact the kinds of insurance authorized by its charter or articles to the extent and with the powers and privileges specified in this chapter when it shall be solvent under this chapter, and shall have complied with the following requirements:

(a) Filed with the Board of Insurance Commissioners a copy of its by-laws certified to by its secretary;

(b) Filed with the said Board a certified copy of its charter or articles of incorporation;

(c) Appointed the Chairman of the said Board its agent for the service of process, in any action, suit or proceedings in any court of this State, which authority shall continue as long as any liability shall remain outstanding in this State;

(d) Filed a financial statement under oath, in such form as the Board may require, and have complied with the other provisions of law applicable to the filing of papers and furnishing information by stock companies on application for authority to transact the same kind of insurance;

(e) Its name shall not be so similar to any name already in use by any such existing corporation, company or association organized or licensed in this State as to be confusing or misleading.

Art. 15.15. Subject to General Laws

Every such mutual insurance company, whether organized within or without the state, shall be subject, except as otherwise provided by law, to all general provisions of law applicable to stock insurance companies transacting the same kinds of insurance, investments, valued policies, policy forms and rates, reciprocal or retaliatory laws, insolvency and liquidation, publication and defamatory statements, and shall make its annual report in such form and submit to such examination and furnish such information as may be required by the Board. As far as practicable such examinations of mutual insurance companies organized outside of this State shall be made in cooperation with the insurance departments

of other states and the forms of annual report shall be such as are in general use throughout the United States.

Art. 15.16. No Exemption From General Laws

Nothing in this chapter shall be construed to mean that any company or association incorporated or organized hereunder shall be exempt from the provisions of the General Laws of this State, heretofore or hereafter enacted governing the incorporation, organization, regulation and operation of companies or organizations writing insurance in this State.

Art. 15.17. Reinsurance

Any such mutual insurance company organized or admitted to transact insurance in this State may by policy, treaty or other agreement cede to or accept from any insurance company or insurer reinsurance upon the whole or any part of any risk which reinsurance shall be without contingent liability or participation or membership unless the contract provides otherwise and shall not be effected with any company or insurer disapproved therefor by written order of the Board of Insurance Commissioners filed in its office.

Art. 15.18. Taxes and Fees

Every such company, whether organized within or without this State shall be subject to such fees as are now provided by law for stock companies doing the same kind of business and to such taxes as may be provided by law for such mutual companies. The tax shall be paid upon the gross premiums received for direct insurance upon property or risks located in this State, deducting premiums upon policies not taken, premiums returned on cancelled policies and any refund or return made to the policyholders other than for losses.

Art. 15.19. Rights and Privileges of Certain Companies Retained

Rights and privileges of companies affected by the repeal of Chapters 5, 9, 12, 13, 14 and 15 of Title 78 of the Revised Civil Statutes of 1925, shall remain in effect to the extent set out in the Acts 1929, 41st Legislature, 1st Called Session, page 90, Chapter 40, Section 18 as amended Acts 1929, 41st Legislature, 2nd Called Session, page 99, Chapter 60, Section 1.

Art. 15.20. Provisions Controlling as to Mutual Insurance

No sort of mutual insurance, other than life insurance, may be conducted in this State, except under the provisions of this law, or under some law remaining on the statutes authorizing the same.

CHAPTER SIXTEEN

FARM MUTUAL INSURANCE COMPANIES

Art.

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Art. 16.01. Farm Mutual Insurance Companies; Definitions

Sec. 1. Farm mutual insurance companies are companies organized for the purpose of insurance on the mutual or cooperative plan against loss or damage by fire, lightning, gas explosion, theft, windstorm and hail, and for all or either of such purposes.

Unless they are restricted by their charters, they may write insurance against said hazards:

(a) On both rural and urban dwellings and attendant outhouses and yard buildings and all their contents for home and personal use—including family vehicles, musical instruments and libraries;

(b) On barns and other farm, dairy, truck garden, hennery and ranch buildings and improvements of every description;

(c) On all vehicles, harness, implements, tools and machinery of every kind and description used on and about farms, truck gardens, dairies, henneries or ranches;

(d) On all fruits and products, other than growing crops, and all fowls, domestic animals and livestock of every description, produced, raised, grown, kept or used on truck gardens, henneries, farms, ranches and dairies; and

(e) On church houses, country school houses, country lodge rooms and country recreation halls, other than road houses and public dance halls and their contents.

Sec. 2. Any company heretofore operating under the provisions of Article 4860a—20, Revised Civil Statutes of Texas or subject to the provisions of said article which out of the total amount of insurance in force maintains more than sixty (60%) per cent in force on rural property and those companies operating on the assessment-as-needed plan shall hereafter be known as "Farm Mutual Insurance Companies" and shall, after the effective date of this code, become subject to the provisions of this chapter. "Rural property" as that term is used in this law shall mean any property which has at least five (5) acres of cultivated or grazing land used exclusively with such insured property. "Assessment-as-needed plan" shall refer to companies that other than for nominal reserve purposes assess members only when a loss or losses occur and who use not more than twenty-five (25%) per cent of their gross income for expenses.

Art. 16.02. Kinds of Insurance Authorized

Farm mutual insurance companies are authorized to write insurance against loss or damage from any hazard provided therein or that any other fire or windstorm insurance company operating in Texas may write on property described in the preceding article.

Art. 16.03. Formation of Company

Any number of bona fide inhabitants, not less than twenty-five (25), residing in any one (1) or more adjoining counties in this State, who each own insurable property in such counties of the value of not less than One Thousand (\$1,000.00) Dollars, who desire to have the same insured for a sum not less than said amount, and have applied in writing for insurance on the same in the company, may form a farm mutual insurance company, and have the same incorporated under the provisions of this chapter.

Art. 16.04. Charter and Articles of Incorporation; Contents

The charter and articles of incorporation of a farm mutual or farmers mutual insurance company shall state the names and post office addresses and be signed by not less than twenty-five (25) of its charter members, and be acknowledged before a notary public by not less than five (5) of them.

It shall also state the name of the company, which shall include the words "Farm Mutual" or "Farmers Mutual," the place of its principal office; the number, names and post office addresses of its first directors, the number never to be less than five (5); and such other provisions as the incorporators may desire to set out therein.

Art. 16.05. Application for Permission to Solicit Insurance

Any five (5) or more of such inhabitants, desiring to form a farm mutual insurance company, may apply to the Board of Insurance Commissioners of the State of Texas for permission to solicit insurance on the mutual or cooperative plan, which application shall state:

- (a) The name of the company, which name shall include the words "Farm Mutual" or "Farmers Mutual;"
- (b) The locality of the principal business of such company;
- (c) The kind of insurance business the company proposes to engage in;
- (d) The names and places of residence of not less than five persons making such application;

(e) An affidavit of at least one of said applicants correctly stating the names and residences of such applicants.

Upon receipt of such application, together with a Ten (\$10.00) Dollar fee for filing of same, the Board of Insurance Commissioners shall at once file it and issue a permit (for a period of six months), authorizing said applicant or applicants to solicit insurance on the mutual or cooperative plan in accordance with the terms of the application, but not to issue policies of insurance or pay losses. Such permit may be renewed as often and as long as the Board of Insurance Commissioners finds it necessary upon application therefor and upon payment of Five (\$5.00) Dollars for each renewal. Moneys collected from applicants other than charter members shall be held in trust for them until incorporation and returned in the event the organization is not perfected.

Art. 16.06. Conditions of Incorporation

Before a charter shall be granted a farm mutual insurance company, the incorporators must have on hand:

(a) Not less than twenty-five (25) applications in writing for insurance on not less than one hundred (100) separate risks; provided that no one risk shall be for more than one (1%) per cent of the total amount of insurance applied for in the new company, and that a separate risk shall be one or more items of real and/or personal property which is not exposed to any other property on which insurance is applied for in the new company;

(b) Not less than One (\$1.00) Dollar for each One Hundred (\$100.00) Dollars of insurance applied for at the time of incorporation, in cash or in approved legal assets, and in addition thereto a like amount of written valid extra premium or assessment obligations; provided the cash or legal assets required may be advanced by one or more persons and may be secured by the legal assets of the company—other than the assets so advanced; and

(c) Said application for charter shall also be accompanied by a copy of the by-laws of the company, and the bond of the secretary or manager of the same in such sum and conditioned as the directors may determine.

Where the foregoing requirements have been complied with to the satisfaction of the Board, the Board, upon the payment of a fee of Fifty (\$50.00) Dollars, shall issue such company a charter to do business as an incorporated company.

Art. 16.07. Location of Business

A farm mutual insurance company may write insurance (a) in any county adjoining the county in and for which it is organized, or (b) in any county in which no farm mutual insurance company has been organized, or (c) anywhere, if its reserve fund, or policyholders' contingent liability, or both such reserve fund and contingent liability taken together, exceeds the sum of Fifty Thousand (\$50,000.00) Dollars.

Art. 16.08. Meetings

The meetings of the policyholders of farm mutual insurance companies shall be held at such time or times, in such place or places, and in such manner for the purpose of electing directors and transacting any business coming before them as prescribed in their by-laws.

Special meetings may be held upon the call of the President, the General Manager, one-third ($\frac{1}{3}$) of the Directors of the Company, or the Board of Insurance Commissioners.

Art. 16.09. Voting by Policyholders

Each policyholder in a farm mutual insurance company shall be entitled to only one vote in all policyholders' meetings.

No voting by proxy shall be permitted unless it is specially authorized by the by-laws.

Art. 16.10. Organization of Local Chapters

The by-laws of farm mutual insurance companies may provide for the organization of local chapters for the transaction of their business and for the creation of districts in and for which their directors may be elected. The by-laws may also provide that delegates from local chapters constitute the supreme governing body of the company. In the organization of local chapters, and the creation of the districts, the hazards insured against, and the classes of risks, as well as the territory of operation, may be taken into consideration.

Art. 16.11. By-laws

The by-laws shall state the time and manner of the levy and payment of all premiums or assessments for all insurance written by the company.

They shall also fix the liability of the policyholders for all losses accrued while the policies are in force, in addition to the regular premium or assessments for the same; and the time and manner of the payment of such liability; provided that the amount of such liability shall never be less than One (\$1.00) Dollar for each One Hundred (\$100.00) Dollars of insurance in such policy; and provided further that such liability shall be a part of the assets of the company and in the statement of the assets and liabilities of the company shall be listed separately as "contingent liability of policyholders."

Farm mutual companies may adopt all rules, regulations, provisions and requirements contained in the standard policies of companies writing fire or windstorm insurance as promulgated from time to time by the Board of Insurance Commissioners, insofar as they are applicable to farm mutual insurance companies, as a part of their by-laws and contracts of insurance, which adoption shall be evidenced either by statement to that effect in the by-laws or in the policies.

The by-laws may also provide that when a loss occurs, the companies may, at their option provide and require that all or a certain per cent of the money to be paid for the loss be put back into a replacement or repair of the property damaged or destroyed, provided such provision may be equally made applicable to real and personal property and property exempt from execution such as homesteads or buildings on the homestead and exempt personal property. Provided also that farm mutual companies may in their by-laws provide that the requirements of Article 6.13 of this code shall not be applicable to their contracts of insurance.

Art. 16.12. By-Laws as Part of Contracts

By-Laws of the company shall always constitute a part of the contract with the insured and the policy shall so state.

Art. 16.13. Provision Against Waiver of By-Laws

Such companies may provide in their by-laws that local chapters and officers and agents elected by them do not have the power to waive any provision of such by-laws.

Art. 16.14. Premiums and Assessments

All premiums and assessments, including the contingent liability of policyholders for all insurance written by farm mutual insurance companies shall be fixed, levied and paid as and when required by the by-laws of the companies and the whole premium or assessment for a policy shall be secured by a lien on each item of real or personal property other than homesteads covered by such policy including the land on which the insured buildings are situated, as long as the same remains the property of the insured.

If default is made by a policyholder in the payment of an assessment or premium, suit may be brought against him for the same in any court of competent jurisdiction in the home county of the company and the company shall be entitled to have judgment against him for such delinquent premiums or assessments, and for a foreclosure of said lien, together with all costs of suit including a reasonable attorney's fee in a sum of not less than Five (\$5.00) Dollars.

Art. 16.15. Policyholders' Liabilities

Policyholders shall be liable for losses of the company only as prescribed in the by-laws of the company, and that only in proportion that the premiums or assessments for the insurance of any policy bear to the total amount of the premiums or assessments for all the insurance in the class to which the policy belongs.

Art. 16.16. Directors; Qualifications; Term

Directors of farm mutual insurance companies shall hold their office for one year after their election, and until their successors qualify, unless otherwise provided in their by-laws.

Only bona fide policyholders who carry insurance on their property in an amount not less than One Thousand (\$1,000.00) Dollars each in a company, shall be eligible to become or remain directors of the same. When a director reduces his said insurance below such amount, he shall no longer be qualified to act as such director.

Art. 16.17. Directors' Power to Borrow

The Board of Directors of farm mutual insurance companies may, at any time, borrow such sum or sums of money as they shall deem necessary to pay its losses, accrued or unaccrued, and may pledge the assets of the company including the contingent liability of the policyholders for such losses as security for such loans.

Art. 16.18. Charter to Prescribe Power of Directors

The Board of Directors of farm mutual insurance companies shall have such discretion, power and authority as their charter shall provide.

Art. 16.19. Reserve Funds

The Board of Directors of farm mutual insurance companies may provide for the accumulation of reserve funds, to be invested in such securities as the reserve funds of other insurance companies are by law required to be invested.

Art. 16.20. Removal of Officers or Employees

The Board of Directors of a company may at any time, in any meeting by a two-thirds ($\frac{2}{3}$) majority vote of all the directors, remove any officer of the company from his office, or any of the employees from their

employment, without assigning any reason therefor, and name another person or persons to assume the duties of the one or ones removed, when, in their judgment, it shall be deemed to the best interest of the company, and the term of office of every officer of a company, and the employment of every employee shall be subject to this provision of the law.

Art. 16.21. Reciprocal Insurance Contracts

Farm mutual insurance companies may reinsure any or all of their risks against any or all hazards which they are permitted to insure against with any other company or companies.

They shall have power and authority to make and enter into mutual or reciprocal reinsurance contracts with other companies on the mutual or cooperative plan; provided that no farm mutual shall write or assume the reinsurance on any other property than the property it is permitted to insure, or on property situated outside of the State of Texas; and when such a farm mutual reinsures the property of another company, it shall not by reason of such fact be, or become a member or partner, of such other company, but shall only become liable for the losses of such other company as specified in the contract of interinsurance and not otherwise; and provided further, that a farm mutual shall only have authority to reinsure the risks of another company in consideration of the fact that such other company reinsures its risks; and for that purpose it may pay or collect additional assessments and/or premiums as the case may be.

Art. 16.22. Annual Reports to Policyholders and to the Board

Farm mutual insurance companies shall annually make and submit written reports to their policyholders showing (a) the rate and total amount of premiums or assessments paid during the year for their insurance, (b) the operating expenses, (c) and the names of the claimants and the amounts paid each for the losses suffered; and send each policyholder a copy of such report as and when prescribed in the by-laws of the company; provided, however, that it shall not be necessary to report the names and amounts of claims of policyholders of one class of insurance to the policyholders in another class, unless the policyholders in such other class are liable for the losses of the former class.

They shall also make such reports annually to the Board of Insurance Commissioners as the Board may require of them, or as shall be required by law.

Art. 16.23. Biennial Examination by the Board

The Board shall biennially, or oftener, if it deems it necessary, examine the farm mutual insurance companies.

Art. 16.24. Solvency

A farm mutual insurance company or association shall be considered solvent and entitled to continue business if its assets, including the contingent liability of its policyholders for its losses, are reasonably sufficient to pay its losses, according to the terms of the policies.

If there are unpaid losses after all the assets of the company have been exhausted, and a rehabilitation of the company is not effected within six (6) months after the exhaustion of such assets, then the Attorney General of the State shall at the request of the Board of Insurance Commissioners, bring suit in the District Court in and for Travis County to cancel the charter of such company.

Art. 16.25. Companies Regarded as Farm Mutual Insurance Companies

All incorporated or unincorporated mutual fire, storm and lightning insurance companies or associations in this State that do not do a general fire insurance business, but limit their business to the insuring of farm, residential and/or household property, real and/or personal, anywhere in this State against any one or more of the hazards against which county mutuals may insure, or when it so limits its insurance business, shall, for the purpose of this chapter, be considered farm mutual insurance companies.

Any such company or association, which, prior to April 6, 1937, has been or hereafter shall be in business for more than twenty (20) years may, at any time before its charter expires by lapse of time, have its charter extended for a period of fifty years from the time of expiration of the original charter, and shall, under the extended charter, continue to have and enjoy all the rights, privileges and immunities that it had under the original charter; provided, however, that it is first authorized to extend its said charter either by a two-thirds ($\frac{2}{3}$) majority vote of all of its directors, or by a simple majority vote at a meeting of its policyholders. The application for such extension shall set out in haec verbae the charter to be extended, and it shall state the time for which it is to be extended and be signed and acknowledged by the President and Secretary of the company.

Any such company whose charter has expired or may hereafter expire by lapse of time, but is or shall be still doing business in this State, may have its charter renewed for a term of fifty years from the time of the expiration of the original charter in like manner as charters may be extended, and from the time of such renewal it shall be entitled to all the rights, privileges and immunities it had and enjoyed under the original charter.

Any such unincorporated mutual fire insurance company which has heretofore been in business continuously for a period of five years or more, prior to April 6, 1937, and has paid all its losses promptly according to contract, may, at any time hereafter, when authorized to do so by two-thirds ($\frac{2}{3}$) of its directors, or by a majority vote of its policyholders, apply for a charter and be incorporated for a term of fifty years as a farm mutual insurance company under this chapter without complying with Articles 16.03 to 16.06, inclusive of this chapter. The application for such charter shall state its name, its purposes, the location of its principal office, the number and names of its directors, and the nature and value of its assets, and it shall be signed and acknowledged by its president and secretary. It shall thereupon be entitled to a charter and to function and do business as a farm mutual insurance company, and enjoy the same rights, privileges and immunities that it had and enjoyed as an unincorporated company, except as otherwise herein provided. Provided, however, that any such unincorporated company or association organized solely for mutual protection of property of its members and not for profit, which has heretofore been doing business for a period of ten years or more, prior to April 6, 1937, and has paid all of its losses promptly according to contract, may continue to do business as an unincorporated association, and in such event, such association shall be exempt from all insurance laws of this State, except that such company or association shall make the annual reports to the Board of Insurance Commissioners as provided in Article 16.22 hereof, and shall be subject to examination by the Board as provided in Article 16.23 hereof.

Art. 16.26. Meet Requirements of This Chapter

Such fire or storm mutual insurance companies as included in the preceding article, heretofore operating under the provisions of 4860a—20, Revised Civil Statutes of Texas, shall become subject to the provisions and requirements of this chapter in lieu of any act heretofore governing such companies. Any such company shall have the right to change its name so as to include the words "Farm Mutual" or "Farmers Mutual," and may amend its constitution and by-laws and/or charter for the purpose of adopting any provision or meeting any requirement of this chapter. The Board shall charge and collect a filing fee of Ten (\$10.00) Dollars for each amendment to the charter of any such company.

Art. 16.27. Fees; Certificate of Authority or Renewal; Annual Statement

The Board shall charge a fee of One (\$1.00) Dollar for the issuance of a certificate of authority or renewal thereof to all companies operating under this chapter, and for filing each annual statement, it shall charge a filing fee of Twenty (\$20.00) Dollars.

Art. 16.28. Exemption from Insurance Laws

Farm mutual insurance companies shall be exempt from the operation of all insurance laws of this State, except as herein specifically provided.

CHAPTER SEVENTEEN

COUNTY MUTUAL INSURANCE COMPANIES

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- 17.04. Charter and Articles of Incorporation; Contents.
- 17.05. Conditions of Incorporation.
- 17.06. By-Laws; Additional Provisions.
- 17.07. Organization of Local Chapters.
- 17.08. Premiums and Assessments.
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Art. 17.01. County Mutual Insurance Companies; Definitions

County Mutual Insurance Companies are companies organized for the purpose of insurance on the mutual or cooperative plan against loss or damage by fire, lightning, gas explosion, theft, windstorm and hail, and for all or either of such purposes.

Unless they are restricted by their charters, they may write insurance against said hazards:

(a) On both rural and urban dwellings and attendant outhouses and yard buildings and all their contents for home and personal use—including family vehicles, musical instruments and libraries;

(b) On barns and other farm, dairy, truck garden, hennery and ranch buildings and improvements of every description;

(c) On all vehicles, harness, implements, tools and machinery of every kind and description used on and about farms, truck gardens, dairies, henneries or ranches;

(d) On all fruits and products, other than growing crops, and all fowls, domestic animals and livestock of every description, produced, raised, grown, kept or used on truck gardens, henneries, farms, ranches and dairies; and

(e) On church houses, country school houses, country lodge rooms and country recreation halls, other than road houses and public dance halls and their contents.

Art. 17.02. Formation of Company

Any number of bona fide inhabitants, not less than twenty-five (25), residing in any one or more adjoining counties in this State, who each own insurable property in such counties of the value of not less than One Thousand (\$1,000.00) Dollars, who desire to have the same insured for a sum not less than said amount, and have applied in writing for insurance on the same in the company, may form a county mutual insurance company, and have the same incorporated under the laws of the State of Texas.

Art. 17.03. Application for Permission to Solicit Insurance

Any five or more of such inhabitants, desiring to form a county mutual insurance company, may apply to the Board of Insurance Commissioners for permission to solicit insurance on the mutual or cooperative plan, which application shall state:

(a) The name of the company, which name shall include the words "County Mutual Insurance Company;"

(b) The locality of the principal business of such company;

(c) The kind of insurance business the company proposes to engage in;

(d) The names and places of residence of not less than five persons making such application;

(e) An affidavit of at least one of said applicants correctly stating the names and residences of such applicants.

Upon receipt of such application, together with a Ten (\$10.00) Dollar fee for filing of same, the Board of Insurance Commissioners shall at once file it and issue a permit (for a period of six (6) months), authorizing said applicant or applicants to solicit insurance on the mutual or cooperative plan in accordance with the terms of the application, but not to issue policies of insurance or pay losses. Such permit may be renewed as often and as long as the Board of Insurance Commissioners finds it necessary upon application therefor and upon payment of Five (\$5.00) Dollars for each renewal. Moneys collected from applicants other than charter members shall be held in trust for them until incorporation and returned in the event the organization is not perfected.

Art. 17.04. Charter and Articles of Incorporation; Contents

The charter and articles of incorporation of a county mutual insurance company shall state the names and post office addresses and be

signed by not less than twenty-five (25) of its charter members, and be acknowledged before a notary public by not less than five (5) of them.

It shall also state the name of the company, which shall include the words "County Mutual Insurance Company," the place of its principal office; the number, names and post office addresses of its first directors, the number never to be less than five (5); and such other provisions as the incorporators may desire to set out therein.

Art. 17.05. Conditions of Incorporation

Before a charter shall be granted a county mutual insurance company, the incorporators must have on hand:

(a) Not less than twenty-five (25) applications in writing for insurance on not less than one hundred (100) separate risks; provided that no one risk shall be for more than one (1%) per cent of the total amount of insurance applied for in the new company, and that a separate risk shall be one or more items of real and/or personal property which is not exposed to any other property on which insurance is applied for in the new company;

(b) Not less than One (\$1.00) Dollar for each One Hundred (\$100.00) Dollars of insurance applied for at the time of incorporation, in cash or in approved legal assets, and in addition thereto a like amount of written valid extra premium or assessment obligations; provided the cash or legal assets required may be advanced by one or more persons and may be secured by the legal assets of the company—other than the assets so advanced; and

(c) Said application for charter shall also be accompanied by a copy of the by-laws of the company, and the bond of the secretary or manager of the same in such sum and conditioned as the directors may determine.

When the foregoing requirements have been complied with to the satisfaction of the Board of Insurance Commissioners, the Board, upon the payment of a fee of Fifty (\$50.00) Dollars, shall issue such company a charter to do business as an incorporated company.

Art. 17.06. By-laws; Additional Provisions

The by-laws shall state the time and manner of the levy and payment of all premiums or assessments for all insurance written by the company.

They shall also fix the liability of the policyholders for all losses accrued while the policies are in force, in addition to the regular premium or assessments for the same; and the time and manner of the payment of such liability; the amount of such liability shall never be less than One (\$1.00) Dollar for each One Hundred (\$100.00) Dollars of insurance in such policy. Such liability shall be a part of the assets of the company and in the statement of the assets and liabilities of the company shall be listed separately as "contingent liability of policyholders."

County mutual companies may adopt all rules, regulations, provisions and requirements contained in the standard policies of companies writing fire, gas explosion, lightning, windstorm or hail insurance as promulgated from time to time by the Board of Insurance Commissioners of the State of Texas, insofar as they are applicable to county mutual insurance companies, as a part of their by-laws and contracts of insurance, which adoption shall be evidenced either by statement to that effect in the by-laws or in the policies.

The by-laws may also provide that when a loss occurs, the companies may, at their option provide and require that all or a certain per cent of the money to be paid for the loss be put back into a replacement or re-

pair of the property damaged or destroyed, provided such provision may be equally made applicable to real and personal property and property exempt from execution such as homesteads or buildings on the homestead and exempt personal property. County mutual companies may in their by-laws provide that the requirements of Article 6.13 of this code shall not be applicable to their contracts of insurance.

Art. 17.07. Organization of Local Chapters

The by-laws of county mutual insurance companies may provide for the organization of local chapters for the transaction of their business and for the creation of districts in and for which their directors may be elected. The by-laws may also provide that delegates from local chapters constitute the supreme governing body of the company. In the organization of local chapters, and the creation of the districts, the hazards insured against, and the classes of risks, as well as the territory of operation, may be taken into consideration.

Art. 17.08. Premiums and Assessments

All premiums and assessments, including the contingent liability of policyholders for all insurance written by county mutual insurance companies shall be fixed, levied and paid as and when required by the by-laws of the companies and the whole premium or assessment for a policy shall be secured by a lien on each item of real or personal property other than homesteads covered by such policy including the land on which the insured buildings are situated, as long as the same remains the property of the insured.

If default is made by a policyholder in the payment of an assessment or premium, suit may be brought against him for the same in any court of competent jurisdiction in the home county of the company and the company shall be entitled to have judgment against him for such delinquent premiums or assessments, and for a foreclosure of said lien, together with all costs of suit including a reasonable attorney's fee in a sum of not less than Five (\$5.00) Dollars.

Art. 17.09. Policyholders Liabilities

Policyholders shall be liable for losses of the company only as prescribed in the by-laws of the company, and that only in proportion that the premiums or assessments for the insurance of any policy bear to the total amount of the premiums or assessments for all the insurance in the class to which the policy belongs.

Art. 17.10. Directors Power to Borrow

The Board of Directors of county mutual insurance companies may, at any time, borrow such sum or sums of money as they shall deem necessary to pay its losses, accrued or unaccrued, and may pledge the assets of the company including the contingent liability of the policyholders for such losses as security for such loans.

Art. 17.11. Solvency

A county mutual insurance company shall be considered solvent and entitled to continue business if its assets, including the contingent liability of its policyholders for its losses, are reasonably sufficient to pay its losses, according to the terms of the policies.

If there are unpaid losses after all the assets of the company have been exhausted, and a rehabilitation of the company is not effected within six months after the exhaustion of such assets, then the Attorney General of the State shall at the request of the Board of Insurance Com-

missioners of the State, bring suit in the District Court in and for Travis County to cancel the charter of such Company.

Art. 17.12. Directors; Qualifications; Term

Directors of county mutual insurance companies shall hold their office for one year after their election, and until their successors qualify, unless otherwise provided in their by-laws.

Only bona fide policyholders who carry insurance on their property in an amount not less than One Thousand (\$1,000.00) Dollars each in a company, shall be eligible to become or remain Directors of the same. When a Director reduces his said insurance below such amount, he shall no longer be qualified to act as such Director.

Art. 17.13. Charter to Prescribe Power of Directors

The Board of Directors of county mutual insurance companies shall have such discretion, power and authority as their charter shall provide.

Art. 17.14. Voting by Policyholders

Each policyholder in a county mutual insurance company shall be entitled to only one vote in all policyholders' meetings.

No voting by proxy shall be permitted unless it is specially authorized by the by-laws.

Art. 17.15. Meetings

The meetings of the policyholders of county mutual insurance companies shall be held at such time or times, in such place or places, and in such manner for the purpose of electing directors and transacting any business coming before them as prescribed in their by-laws.

Special meetings may be held upon the call of the President, the General Manager, one-third (1/3) of the Directors of the company, or the Board of Insurance Commissioners.

Art. 17.16. Location of Business

A county mutual insurance company may write insurance (a) in any county adjoining the county in and for which it is organized or (b) in any county in which no county mutual insurance company has been organized, or (c) anywhere, if its reserve fund, or policyholders contingent liability, or both such reserve fund and contingent liability taken together, exceeds the sum of Fifty Thousand (\$50,000.00) Dollars.

Art. 17.17. Reserve Funds

County mutual insurance companies shall maintain at all times unearned premium reserves for all unexpired risks by reserving fifty (50%) per cent of the unearned portion of premiums collected after June 19, 1949, on business in force or written thereafter having two (2) years or less to run, and by reserving a pro rata of all premiums collected on risks that have more than two (2) years to run. The reserves herein required may be invested in such securities as the reserve funds of other insurance companies are by law required to be invested.

Art. 17.18. Biennial Examination

The Chairman of the Board of Insurance Commissioners shall biennially, or oftener, if he should deem it necessary, in person or by one or more examiners, examine county mutual insurance companies.

Art. 17.19. Extension of Charters

Any such company at any time before its charter or any extension thereof expires may have such charter extended for a term of fifty (50) years from the date of expiration. It shall continue under the extended charter to have all the rights, privileges and immunities granted by this chapter. The application for such extension shall be made to the Board, shall show that the application was authorized either by a two-thirds (2/3) vote of the directors or by a majority vote at a policyholders' meeting, shall set out in haec verbae the charter to be extended, shall state the time for which it is to be extended, shall be signed and acknowledged by the president and secretary of the company, and shall be accompanied by a fee of Fifty (\$50.00) Dollars.

Art. 17.20. Reciprocal Insurance Contracts

County mutual insurance companies may reinsure any or all of their risks against any or all hazards which they are permitted to insure against with any other company or companies.

They shall have power and authority to make and enter into mutual or reciprocal reinsurance contracts with other companies on the mutual or cooperative plan; provided that no county mutual insurance company shall write or assume the reinsurance on any other property than the property it is permitted to insure, or on property situated outside of the State of Texas; and when such a county mutual insurance company reinsures the property of another company, it shall not by reason of such fact be, or become a member or partner, of such other company, but shall only become liable for the losses of such other company as specified in the contract of interinsurance and not otherwise; and provided further, that a county mutual insurance company shall only have authority to reinsure the risks of another company in consideration of the fact that such other company reinsures its risks; and for that purpose it may pay or collect additional assessments and/or premiums as the case may be.

Art. 17.21. Fees

The Board shall charge a fee of One (\$1.00) Dollar for the issuance of a certificate of authority or renewal thereof to all companies operating under this chapter, and for filing each annual statement, it shall charge a filing fee of Twenty (\$20.00) Dollars.

Art. 17.22. Exemption from Insurance Laws

County mutual insurance companies shall be exempt from the operation of all insurance laws of this State, except as herein specifically provided.

Art. 17.23. By-Laws as Part of Contracts

By-laws of the company shall always constitute a part of the contract with the insured and the policy shall so state.

Art. 17.24. Provision Against Waiver of By-Laws

Such companies may provide in their by-laws that local chapters and officers and agents elected by them do not have the power to waive any provision of such by-laws.

Art. 17.25. County Mutual Insurance Companies

Sec. 1. Regulation—County mutual insurance companies operating under the provisions of this chapter shall be authorized to write insur-

ance against loss or damage from any hazard provided therein or that any other fire or windstorm insurance company operating in Texas may write on property described in Article 17.01 of this chapter.

Sec. 2. Companies Subject to Provisions of Article; Requirements.—Any company operating under or subject to the provisions of this chapter excepting those companies which out of the total amount of insurance in force maintain more than sixty (60%) per cent in force on rural property and those companies operating on the assessment-as-needed plan, which shall hereafter be known as "Farm Mutual Insurance Companies," shall become subject to the provisions of this article and shall comply with the following requirements, to-wit:

Sec. 3. Definitions.—The following terms when used in this article shall be defined:

"Company" shall refer to and include all types or organizations, corporations, associations, companies or groups subject to the provisions of this article.

"Board" shall refer to the Board of Insurance Commissioners of the State of Texas.

"Member" shall include policyholders or any persons insured by a company, by whatsoever means the insurance may be effective.

"Policy" shall include any insurance certificate or contract or insurance, certificate of membership or other document through which insurance is effected or evidenced.

"Assessment-as-needed plan" shall refer to companies that other than for nominal reserve purposes assess members only when a loss or losses occur and who use not more than twenty-five (25%) per cent of their gross income for expenses.

"Insolvent" shall refer to and include any condition or situation which is so designated herein and which is violative of the provisions of this article.

"Rural Property" as the term is used in this article shall mean any property which has at least five (5) acres of cultivated or grazing land used exclusively with such insured property.

"Paid in full" or "full payment" shall mean the payment of the full amount of loss actually sustained not to exceed the maximum stated in the policy on the happening of the contingency insured against.

Sec. 4. Deposit.—Each such company shall place with the State Treasurer through the Board of Insurance Commissioners a deposit equal to the largest amount assumed on any one risk, or upon a showing of reinsurance acceptable to the Board, the largest amount retained on any one risk after reinsurance, which deposit may be in cash or in convertible securities subject to approval of the Board. Such deposit shall be liable for the payment of all judgments against the company, and subject to a garnishment after final judgment against the company. When such deposit becomes impounded or depleted it shall at once be replenished immediately on demand by the Board, or the company may be regarded as insolvent.

In addition to the statutory deposit, the company shall have and at all times maintain cash or invested assets equal to the amount of the statutory deposit, exclusive of the policyholders' contingent liability for excess claims.

When any company shall desire to state in advertisements, letters, literature or otherwise, that it has made a deposit with the Board as required by law, it must also state in full the purpose of the deposit, the conditions under which it is made, and the exact amount and character thereof.

Sec. 5. Policy Forms.—Every policy form issued by such company shall be filed with, and must be approved by the Board of Insurance Commissioners if said policy form is in compliance with the article and so worded as not to be misleading to the policyholders and the public before it is used by the company. It is not mandatory that these forms be uniform for all companies, but the Board is directed to bring about as great uniformity as is feasible as early as practicable by cooperation with the several companies. All policy forms hereafter used must be in accord with the provisions of this article regulating such companies.

Sec. 6. File Schedule of Charges.—Such companies shall file with the Board a schedule of its rates, the amount of policy fee, inspection fee, membership fee, or initial charge by whatever name called, to be charged its policyholders or those applying for policies.

Sec. 7. Organizers' Permit.—The Board shall make investigation of the individuals who shall make application for a charter under and in the manner provided by Article 17.03, and when the Board shall be satisfied that the organizers are responsible persons and of the probability that the territory to be served can support such company, that the articles of association, constitution, by-laws, and certificates are in proper form as prescribed by this article and so worded as not to be misleading to the policyholders and the public, that the statutory deposit has been posted in the required amount, and the bond shall have been approved, it shall issue a permit to the organizers authorizing them to solicit applications for insurance as provided under Article 17.05. In addition to the other requirements of this chapter and of this article before the company shall be eligible for its permanent certificate, it shall have on hand assets equal to the amount of the statutory deposit.

Sec. 8. Books and Records.—All the records and books of each company shall be kept in the shape, form and manner as to reflect truly and accurately the condition of the company, or the facts essential to its faithful and effective operation. The company shall at once adopt forms or systems which will serve the purpose most effectively.

Sec. 9. Agents' License.—Such company shall also file with the Board, and secure license for, each of its agents, or solicitors, upon payment of license fee of One (\$1.00) Dollar for each agent or solicitor under the provisions of Article 21.07 of this code.

Sec. 10. Removal of Officers.—The Board of Insurance Commissioners shall not issue to any company a certificate of authority to do business in Texas, when it shall find after notice and hearing any officer or member of the board of directors to be unworthy of the trust or confidence of the public. After a certificate has been granted, the Board shall order, after notice and hearing, the removal of any officer or director found unworthy of trust, and if such officer or director be not then removed, the Board shall cancel the certificate and proceed to deal with the company as though it were insolvent.

Sec. 11. Bond of Officers, Employees.—Such companies shall furnish a bond for the officer responsible for the handling of funds of the members in some surety licensed by the Board to do business in Texas in the minimum amount of One Thousand (\$1,000.00) Dollars, said bond to be kept at all times at least equal to the cash assets on hand, with a maximum of Twenty Thousand (\$20,000.00) Dollars, said bond shall be made payable to the Board of Insurance Commissioners for the use and benefit of the members of the company, and shall obligate the principal and surety to pay such pecuniary loss as the company shall sustain through acts of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction or willful misapplication on the part of such officer, either directly and alone, or in connivance with others.

In addition to the bond required in the preceding paragraph each company shall procure a like bond for all other office employees, who may have access to any of its funds, in an amount or amounts fixed by the Board with a minimum of One Thousand (\$1,000.00) Dollars and a maximum of Five Thousand (\$5,000.00) Dollars. Successive recoveries on any of the bonds provided for in this section may be had on such bonds until same are exhausted.

Sec. 12. Contesting of Claims.—It shall not be unlawful for a company to contest claims for valid reasons; but claims may not be contested for delay only or for captious or inconsequential reasons, or to force settlement at less than full payment. Therefore, if liability is to be denied on any claim, the company is hereby required to notify the claimant within sixty (60) days after due proofs are received that the claim will not be paid, and failing to do so, it will be presumed as a matter of law that liability has been accepted.

The Board, after notice and hearing, shall cancel the certificate of authority of any company found to be operating fraudulently or improperly contesting its claims.

Sec. 13. Amendment to By-Laws.—By-laws of any such company may be amended by a majority of the members of the company present or represented by proxy when ratified by the board of directors, but only at meetings called for that purpose, or at regular meetings. Amendments to the by-laws shall not be effective until approved by the Board of Insurance Commissioners as being in conformity with this Act. Notices of all meetings, whether regular or special, at which amendments to by-laws will be considered must be mailed or delivered personally to all members.

Sec. 14. Conservatorship or Liquidation.—If, upon an examination or at any other time, and after proper notice and hearing, it appears to the Board of Insurance Commissioners that such company be insolvent, or its condition be, in the opinion of the Board, such as to render the continuance of its business hazardous to the public, or to holders of its certificates, or if such company appears to have exceeded its powers or failed to comply with the law, then the Board shall notify the company of its determination and said company shall have thirty (30) days under the supervision of the Board within which to comply with the requirements of the Board; and in the event of its failure to so comply within such time, the Board, acting for itself or through a conservator appointed by the Life Insurance Commissioner for that purpose, shall immediately take charge of such company, and all of the property and effects thereof. If the Board is satisfied that such company can best serve its policyholders and the public through its continued operation by the conservator under the direction of said Board, pending the election of new directors and officers by the membership in such manner as the Board may determine, the same shall be done. If the Board, however, is satisfied that such company is not in condition to satisfactorily continue business in the interest of its policyholders under the conservator as above provided, the Board shall proceed to reinsure the outstanding liabilities in some solvent company, authorized to transact business in this State, or the Board shall proceed through such conservator, to liquidate such company, or the Board may give notice to the Attorney General as provided under the General Laws relating to insurance corporations. It shall be in the discretion of the Board to determine whether or not it will operate the company through a conservator, as provided above, or proceed to liquidate the company, as herein provided, or report it to the Attorney General. When the liabilities of a company are reinsured or liquidated, as herein provided, the Board shall report the same to the Attorney General

who shall take such action as may be necessary to effect the forfeiture or cancellation of the charter of the company so reinsured or liquidated. Where the Board lends its approval to the merger transfer or consolidation of the membership of one company with that of another, the same shall be reported to the Attorney General who shall proceed to effect the forfeiture or cancellation of the charter of the company from which the membership was merged, transferred or consolidated, in the same manner as is provided for the charters of companies reinsured or liquidated. No merger or transfer shall be approved unless the company assuming the members transferred or merged is operating under the supervision of the Board of Insurance Commissioners. The cost incident to the conservator's services shall be fixed and determined by the Board and shall be a charge against the assets and funds of the company to be allowed and paid as the Board may determine.

Sec. 15. Violation by Agent.—Should any agent or solicitor for any company be found guilty of making a charge greater than that filed with the Board, or guilty of misrepresentation, he shall have his license cancelled and shall not thereafter be again licensed by said Board. Any agent or solicitor who, upon conviction, is found guilty of overcharge or misrepresentation, shall be punished by a fine of not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars.

Sec. 16. Misappropriation of Funds.—If any director, officer, agent, employee, attorney at law or attorney in fact, of any association under this article shall fraudulently take, misapply or convert to his own use any money, property or other thing of value belonging to such company, knowing that he is not entitled to receive it, that may have come into his custody, control, possession or management by virtue of his office, directorship, agency, or employment, or in any other manner, or shall secrete the same with intent to take, misapply or convert the same to his own use, or shall pay or deliver the same to any person knowing that he is not entitled to receive it, he shall be confined in the penitentiary not less than two (2) nor more than ten (10) years.

Sec. 17. Unlawful Diversion of Funds.—If any director, officer, agent, employee, attorney at law, or attorney in fact of any company under this article, shall wilfully borrow, withhold or in any manner divert from its purpose, any special fund or any part thereof, belonging to or under the control and management of any company under this article, which has been set apart by law, he shall be confined in the penitentiary not less than two (2) nor more than ten (10) years.

Sec. 18. Compel Written Reports.—The Board of Insurance Commissioners shall have the power and authority to compel written reports from such association as to the condition of such company whenever deemed advisable by the Board. The Board may require that such report be verified by the oath of a responsible officer of the company. If any officer, director, agent, employee, attorney at law or attorney in fact, of any company under this article, shall wilfully make any false affidavit in connection with the requirements of this article, he shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not to exceed two (2) years, or by confinement in the penitentiary not to exceed two (2) years.

Sec. 19. Violation of Provisions.—If any director, officer, agent, employee or attorney at law or attorney in fact of any company under this article, or any other person, shall violate any of the provisions of this article not specifically set out in Sections 16, 17, and 18 of this article, he shall be punished by fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment.

Sec. 20. Contingent Liability.—The contingent liability of policyholders required under Article 17.06 of this chapter, shall be fixed in the by-laws of each company and shall never be less than One (\$1.00) Dollar nor more than Five (\$5.00) Dollars for each One Hundred (\$100.00) Dollars of property insured in any policy issued by companies subject to the provisions of this article. Where any risk is insured against more than one hazard, for the purposes of this chapter and of this article, the amount of risk or insurance in any policy shall be the maximum loss that may be sustained at any one time by the company under the policy, regardless of the number of hazards insured against.

Sec. 21. Appeals.—It shall be the right and privilege of any individual or any such company to appeal within sixty (60) days from any Board order or ruling to the District Court in the County of Travis, Texas. The trial shall be de novo, and in the event of appeal the orders of the Board shall be suspended pending final judgment of the courts.

CHAPTER EIGHTEEN

LLOYD'S PLAN

Art.

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Art. 18.01. "Underwriters" Defined

Individuals, partnerships or associations of individuals, hereby designated "underwriters," are authorized to make any insurance, except life insurance, on the Lloyd's plan, by executing articles of agreement expressing their purpose so to do and complying with the requirements set forth in this chapter.

Art. 18.02. "Attorneys" Defined

Policies of insurance may be executed by an attorney or by attorneys in fact or other representative, hereby designated "attorney," authorized by and acting for such underwriters under power of attorney. The principal office of such attorneys shall be maintained at such place as may be designated by the underwriters in their articles of agreement; provided that no license shall be issued to any attorney at Lloyd's to bind risks or insurance in Texas, or with citizens of Texas or covering property in Texas, unless their attorneys in fact be residents of this State and maintain their office in this State, except as may be hereinafter specifically provided.

Art. 18.03. Application for License

The attorney shall file with the Board of Insurance Commissioners a verified application for license setting forth and accompanied by:

- (a) The name of the attorney and the title under which the business is to be conducted, which title shall contain the name Lloyd's and shall not be so similar to any name or title in use in this State as to be likely to confuse or deceive.
- (b) The location of the principal office.

(c) The kinds of insurance to be effected, which kinds of insurance may be as follows:

1. Fire insurance, which term shall be construed to include tornado, hail, crop and floater insurance.
2. Automobile insurance, which term shall be construed to include fire, theft, transportation, property damage, collision liability and tornado insurance.
3. Liability insurance.
4. Marine insurance.
5. Accident and health insurance.
6. Burglary and plate glass insurance.
7. Fidelity and surety bonds insurance.
8. Any other kinds of insurance not above specified, the making of which is not otherwise unlawful in this State, except life insurance.

(d) A copy of each form of policy or contract by which such insurance is to be effected.

(e) A copy of the form of power of attorney by virtue of which the attorney is to act for and bind the several underwriters and a copy of the articles of agreement entered into between the underwriters themselves and the attorney.

(f) The names and addresses of all underwriters, whose number shall not be less than ten.

(g) A financial statement showing in detail the assets contributed or accumulated in the hands of the attorneys in fact, committee of underwriters, trustees and/or other officers of such underwriters at Lloyd's, together with the liabilities incurred and outstanding and the income received and disbursements made by the attorney for the underwriters.

(h) An instrument executed by each and all of the underwriters specially empowering the attorney to accept services of process for each underwriter in any action on any policy or contract of insurance and an instrument from the attorney to such Board delegating the attorney's powers in this respect to such Board.

Art. 18.04. License

Upon compliance with the requirements of this chapter and upon a showing of net assets as provided in the succeeding article the Board of Insurance Commissioners shall, upon payment of a fee of Ten (\$10.00) Dollars, issue a license to any attorney applying therefor specifying the kind or kinds of insurance which he is authorized to make and containing the name of the attorney, the location of his principal office, and the title under which such business is to be conducted. Such license shall continue in force until the thirty-first day of May succeeding, at which time it may be renewed for the period of another year by the Board if and when said Board shall be satisfied from a report filed by such underwriters at Lloyd's showing that the provisions of the law applicable thereto have been complied with, and that such underwriters are entitled to a renewal of such license. Such license shall be renewed from year to year thereafter on the same conditions.

Art. 18.05. 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, trustee or other officers as provided for in the articles of agreement, shall be at least Sixty Thousand (\$60,000.00) Dollars 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 trans-

act more than one kind of business as defined in Article 18.03 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 (\$10,000.00) Dollars 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.

Art. 18.06. Limitation of Business

The underwriters at a Lloyd's shall not assume nor write insurance obligations in Texas nor for citizens of Texas, nor covering property located in Texas which produce a net premium income in excess of ten times the net assets of such underwriters, and if at any time the liabilities assumed upon such insurance shall produce a net premium income greater than ten times such net assets, then no further insurance obligation shall be assumed until the net assets have been increased so as to admit of additional insurance obligations which will produce a premium income not greater than ten times such net assets; provided that when the net assets at a Lloyd's shall equal the sum of money which will be required of a stock insurance company doing the same character of business in Texas, then his limitation upon the volume of business to be written shall not apply further; provided further that if in the judgment and discretion of the Board of Insurance Commissioners such underwriters at a Lloyd's shall have effected reinsurance, or other contracts, with responsible and solvent insurance carriers reducing the net lines at risk carried by such underwriters at a Lloyd's so that their operations are safe and their solvency not in danger, then such Board may renew or extend the licenses of such underwriters, irrespective of this limitation.

Art. 18.07. Solvency

In determining the solvency and arriving at the amount of net assets on hand belonging to underwriters at a Lloyd's for the purpose of this chapter, there shall be considered all the funds contributed to the Guaranty Fund by the underwriters and the funds accumulated during the progress of the business and held for such underwriters by the attorney in fact, trustees or other officers. Underwriters at a Lloyd's shall be deemed solvent when the net assets on hand shall meet the requirements of this chapter after deducting from its gross assets all outstanding liabilities, including reserve liabilities, and when the contributed guaranty fund at least to the minimum required herein shall be unimpaired.

Art. 18.08. Reserves

Underwriters at a Lloyd's are required to compute reserve liabilities for all outstanding business and for all incurred losses upon the same basis required for stock insurance companies doing the same classes and character of business in Texas.

Art. 18.09. Investments

The assets of underwriters at a Lloyd's to the extent of the minimum required under the provisions of Article 18.05 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. Lloyd's organized prior to August 10, 1943, and doing business under license from the Board of Insurance Commissioners shall not be required to conform to this article except as to securities thereafter acquired, whether in substitution for securities then held or from additional, successor, or substituted underwriters.

Art. 18.10. Control of Net Assets

The assets of underwriters at a Lloyd's to the extent of the minimum required under the provisions of this chapter shall be submitted to and subjected to the joint control of the attorney in fact for such underwriters, and the Board of Insurance Commissioners, in some manner satisfactory to the Board, so that the same may not be withdrawn or diverted, or expended, except with the approval of the Board and the purposes provided for in this chapter. Such underwriters, however, shall be entitled to the interest or income accruing from such property or securities as may be placed under the joint control of such attorney in fact and the Board as and when the same is payable. Provided, however, in lieu of such joint control any attorney in fact at a Lloyd's now doing business in this State may give bond in the sum of Twenty-five Thousand (\$25,000.00) Dollars for the safe keeping of assets, to be released only on approval of the Board of Insurance Commissioners, and in such form and with corporate surety as shall be approved by the Board of Insurance Commissioners.

Art. 18.11. Examination of Affairs

The Board of Insurance Commissioners is hereby required to make a biennial examination either in person or through a duly appointed examiner of the books and affairs of the attorney for underwriters at a Lloyd's, or of any attorney for such underwriters at a Lloyd's wherever such books may be kept and its affairs may be conducted. The expense of such examinations must be borne by the underwriters; and the attorneys and their deputies shall facilitate such examination and furnish all such information which the Board may demand.

Art. 18.12. Annual Reports

The attorneys for such underwriters shall annually file with the Board of Insurance Commissioners a verified report of the business done by the attorney for such underwriters during the previous year, and of the condition of its affairs, together with such other information as the Board of Insurance Commissioners may demand; such report shall be filed upon blanks prepared by the Board and shall cover the report of all the business of such underwriters, wherever the same may be conducted.

Art. 18.13. Limitation of Liability

An underwriter at a Lloyd's may limit his total liability by contract with the persons insured to the proportionate part of the loss represented by the ratio which his subscription paid in, in cash and/or securities such as allowed by this chapter bears to the total guaranty fund contributed by the several underwriters and his total liability on all risks may be limited to the amount of his subscription as expressed in his power of attorney and agreement with the attorney in fact, provided at least half of the subscription of each underwriter must be paid or contributed to the guaranty fund in cash and/or admissible securities. Each underwriter shall be responsible solely for his own liability as fixed in the contract of insurance and not be liable as a partner.

Art. 18.14. Liability of Substitutes

Additional or substituted underwriters shall be bound in the same manner and to the same extent as original subscribers to the articles of agreement and power of attorney on file with the Board; and the acts of the duly appointed deputy or substitute attorney of any attorney licensed under this chapter accepting powers of attorney from underwriters and in making and issuing policies and contracts of insurance and in doing any additional acts incident thereto shall be deemed authorized by the license issued to the original attorney.

Art. 18.15. Division of Profits

No profits shall accrue to an underwriter, except upon the basis of his actual investment in cash or convertible securities, disregarding any obligation or subscription to pay in additional cash or securities at a later date.

Art. 18.16. Assuming Risk

No attorney for underwriters at a Lloyd's shall assume any one insurance risk exceeding one-tenth of the amount of the net assets of the underwriters as defined in this chapter and the additional liability assumed by the individual underwriters in the articles of agreement and in the policies or contracts of insurance, unless such excess shall be promptly reinsured.

Art. 18.17. Action on Policy

Action on any policy or contracts of insurance made by the attorney for the underwriters may be brought against the attorney or against the attorneys and the underwriters or any of them. In such action, summons and process shall be served on either the Chairman of the Board of Insurance Commissioners or on the attorney in fact and when so served shall have the same force and effect as if served on the attorney and on each underwriter personally. A judgment in any such action against the attorney or against any of the underwriters shall be binding upon and be a judgment against each and all of the underwriters as their several liabilities may appear in the contract of insurance on which the action is brought.

Such summons or other process shall be served in duplicate, and the Chairman of the Board shall forthwith by registered mail send one copy thereof to the attorney for the underwriters at the principal office designated in the application for license or latest amendments thereof. The party commencing any action against the underwriters at a Lloyd's and securing service of process in this manner shall at the time of such service pay to such Board for the use of the department a fee of Two (\$2.00) Dollars, which he shall be entitled to collect as taxable costs in the action if he shall prevail.

Art. 18.18. Winding Up Affairs

Whenever it shall appear to the Board of Insurance Commissioners that the minimum assets provided for in Article 18.05 have become impaired, the Board shall immediately give notice to the attorney in fact for such Lloyd's to appear and show cause why the license of such attorney shall not be revoked, and if within thirty (30) days from the giving of such notice the impairment or insolvency shall not be made good by such underwriters, or their attorney, such license shall immediately be cancelled. If such attorney or other person shall make any advancement to make good such impairment, the claim for such advancement against the assets of such underwriters shall be deferred to the claims for losses under policies or contracts of insurance. If such impairment

is not made good within the time prescribed, then the Board shall proceed to take charge of the assets of such underwriters, and to effect a reinsurance of all business outstanding in Texas or covering property located in Texas, and for that purpose, the Board shall have the right to use the net assets, and to make provision for the payment of outstanding claims and losses. In case reinsurance cannot be effected by the said Board, then the affairs of such underwriters at Lloyd's shall be wound up through receivership proceedings instituted by the Attorney General of Texas at the request of the Board.

In case underwriters at a Lloyd's shall desire to withdraw from the insurance business, they may be permitted to do so, if and when they shall satisfy the Board that adequate provision has been made, through reinsurance or otherwise, for the payment of all unadjusted losses, and for the reinsurance of all outstanding risks in favor of citizens of Texas, or covering property in Texas, and thereupon any bond of the attorney in fact shall be released, and said Board shall release to such underwriters the net assets over which it may have been given joint control.

Art. 18.19. Foreign Lloyd's

In case underwriters at a Lloyd's who are nonresidents of Texas, or who maintain their principal office outside of Texas, apply for a permit to do business in Texas, such permit shall not be granted unless such underwriters have and maintain net assets in Texas which are subject to the joint control of their attorney in fact and the Board of Insurance Commissioners of this State sufficient to meet the minimum requirements of this chapter relative to the amount of net assets which underwriters at Lloyd's must have; or unless they submit to and file with the Board a bond executed by such corporate sureties as the Board may require, which corporate sureties must be licensed to do guaranty, fidelity and surety business in Texas, in a principal amount which would be required for net assets of underwriters at Lloyd's under foregoing provisions of this chapter, which said bond shall be payable to the Board of Insurance Commissioners, and which shall be conditioned for the payment of all claims arising upon contracts issued in Texas, or issued to residents and citizens of Texas, or covering property located in Texas, and which bond shall be held by the Board for the benefit of all persons having valid claims arising upon such contracts. It shall also provide that in the event the underwriters shall become insolvent or cease to transact business in this State at any time when there are outstanding policies of insurance in favor of citizens of this State, or upon property in this State, the Board shall have power, after having given ten (10) days' notice to the attorneys for such underwriters, or any receiver in charge of its property and affairs, to contract with any other insurance carrier transacting business in this State for the assumption and reinsurance by it of all insurance risks outstanding in this State of such underwriters, which contract shall also provide for the assumption by such reinsurance carrier of all outstanding and unsatisfied lawful claims then outstanding against such underwriters. In the event of the Board making any such contract, and if the same shall be approved as reasonable by the Attorney General, the reinsuring carrier shall be entitled to recover from the makers of such bond the amount of the premium or compensation so agreed upon for such reinsurance. Such bond shall also bind any additional or substitute underwriters at such Lloyd's. If any underwriters desiring to do so, at their option, in lieu of giving the bond authorized by this article, shall submit admissible securities subject to the joint control of its attorney in fact and the Board of Insurance Commissioners, such deposits of securi-

ties shall be deemed to have been made upon such terms and conditions as provided by such bond.

If there shall be any recovery upon the bond or from the deposit hereinabove provided for, then the Board shall immediately demand additional security so as to bring the amount of the bonds up to the minimum sum required hereunder, which additional bond must be posted within thirty (30) days from the date of such demand. Provided, there may be successive recoveries on said bond until the principal sum thereof is exhausted.

Art. 18.20. Provisions Applicable to Foreign Lloyd's

All of the provisions of this chapter are applicable to underwriters at a Lloyd's who are non-residents of Texas, or who maintain their principal office outside of Texas, in the same manner that they are applicable to underwriters of a Lloyd's who are residents of Texas and who maintain their principal office in this State.

Art. 18.21. Reinsurance

The provisions of this Chapter shall not prevent any Texas Lloyd's from reinsuring its excess lines with a solvent foreign Lloyd's, acceptable to the Board of Insurance Commissioners, which has no license to do business in Texas nor from reinsuring any business from such foreign Lloyd's.

Art. 18.22. Revocation and Suspension of License

If any attorney in fact or underwriters at Lloyd's shall violate any of the provisions of this chapter or any of the other laws of the State of Texas, which are applicable to them, the license of such attorney shall be revoked and the right to do business in Texas shall be cancelled.

Art. 18.23. This Law Exclusive

Except as provided in this Chapter, no other insurance law of this State shall apply to insurance on the Lloyd's plan unless it is specifically so provided in such other law that the same shall be applicable.

Art. 18.24. Promotion of Lloyd's

(1) No person or persons, firm or corporation, shall be instrumental in the origination of a Lloyd's business if in such organization any money or property shall be paid over to such person, persons, firm or corporation, or their agent or representative, by way of commission or other compensation for procuring underwriters or guaranty fund for such Lloyd's, unless such person, persons, firm or corporation shall in advance make application to the Board of Insurance Commissioners and shall receive a permit from such Board to organize such Lloyd's and charge a commission in connection with such organization.

(2) In no event shall more than ten (10%) per cent of the total amount of the subscription to such an enterprise by any underwriter be paid to any person by way of commission for the sale of "units" or interest in such Lloyd's business or in the procuring of underwriters therefor.

(3) This article shall not apply to the organization or the enlargement of a Lloyd's in which no promotion expense is deducted from the contributions made by the underwriters, and no commission of any sort is paid for the procuring of underwriters or subscriptions to the guaranty fund of such business.

(4) This article shall apply to the continued organization or the continued extension of any Lloyd's business which has heretofore been li-

censed by the Insurance Department of this State, if in such further extension of such business any commission is to be paid, but such permit shall not be refused because of the contemplated size or amount of the guaranty fund of such Lloyd's.

(5) After such permission shall have been granted for the organization of enlargements of a Lloyd's, no securities shall be accepted as contributions to the guaranty fund of such Lloyd's, unless such securities shall have been approved in advance by the Board of Insurance Commissioners as complying with this law relative to the investment of the funds of such organizations.

CHAPTER NINETEEN

RECIPROCAL EXCHANGES

Art.

- 19.01. May Exchange Contracts.
- 19.02. Attorney for Subscribers.
- 19.03. Declaration of Subscribers.
- 19.04. Service of Process.
- 19.05. Statement of Indemnity.
- 19.06. Financial Requirements.
- 19.07. May Advance Money.
- 19.08. Financial Report.
- 19.09. Any Corporation May Exchange.
- 19.10. Certificate of Authority.
- 19.11. Fees and Taxes.
- 19.12. What Insurance Law Applies.

Art. 19.01. May Exchange Contracts

Individuals, partnerships and corporations of this State hereby designated subscribers are hereby authorized to exchange reciprocal or inter-insurance contracts with each other, or with individuals, partnerships and corporations of other states and countries, providing indemnity among themselves from any loss which may be insured against under other provisions of the laws, excepting life insurance.

Art. 19.02. Attorney for Subscribers

Such contracts may be executed by a duly appointed attorney in fact duly authorized and acting for such subscribers. The office or offices of such attorney may be maintained at such place or places as may be designated by the subscribers in the power of attorney.

Any person, firm or corporation may act as such attorney in fact, provided such attorney in fact shall make a good and sufficient fidelity bond acceptable to the Board of Insurance Commissioners of Texas and payable to the subscribers at the exchange, or, in lieu thereof, payable to the said Board of Insurance Commissioners, such bond to be in the sum of Twenty-five Thousand (\$25,000.00) Dollars in the case of an individual or firm, and Fifty Thousand (\$50,000.00) Dollars in the case of a corporation, which said bond shall obligate the principal and surety to pay such pecuniary loss, not exceeding the penalty of the bond, as the exchange shall sustain of money or property by an act or acts of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction or wilful misapplication on the part of the said attorney in fact directly or through connivance with others, and in the event of any violation of the conditions of said bond, the insurance supervisory authority of any state in which the attorney in fact is authorized to transact the business of the exchange may bring suit to enforce the penalty of the bond on behalf of the subscribers; provided, that a deposit with the proper lawful authority of the home state of such exchange of cash or securities of the kind in which general casualty companies may invest their funds, in like amount, conditioned, approved and payable in like manner, may be used in lieu of such bond.

Art. 19.03. Declaration of Subscribers

Such subscribers, so contracting among themselves, shall, through their attorney in fact, file with the Board of Insurance Commissioners a declaration verified by the oath of such attorney in fact setting forth:

1. The name or the title of the office at which subscribers propose to exchange such indemnity contracts. Said name or title shall not be so similar to any other name or title previously adopted by a similar organization, or by any insurance corporation or association, as in the opinion of said Board of Insurance Commissioners is calculated to confuse or deceive. The office or offices through which such indemnity contracts shall be exchanged shall be classified as reciprocal or interinsurance exchanges.

2. The kind or kinds of insurance to be affected or exchanged, provided that same shall not include life insurance.

3. A copy of the form of policy, contract or agreement under or by which such insurance is to be effected or exchanged.

4. A copy of the form of power of attorney or other authority of such attorney in fact under which such insurance is to be effected or exchanged, which form shall be subject to approval by the Board of Insurance Commissioners of Texas; provided, however, that, except as to matters concerning which specific provision is made in this chapter, nothing herein contained shall be so construed as to permit the said Board to require the filing or use of uniform forms of such instruments. Such power of attorney or other authority executed by the subscribers at any such exchange shall provide that such subscribers shall be liable, in addition to the premium or premium deposit specified in the policy contract, to a contingent liability equal in amount to one (1) additional annual premium or premium deposit. Such subscribers at such exchange may provide by agreement that the premium or premium deposit specified in the policy contract on all forms of insurance except life shall constitute their entire liability through the exchange if the free surplus of such exchange is equal to Two Hundred Thousand (\$200,000.00) Dollars but shall discontinue exchanging policy contracts with such provisions at such time as the free surplus of such exchange is not equal to said amount; provided that if such exchange does not or is not applying to exchange workmen's compensation, employers' liability, or contract providing indemnity against legal liability to third persons, except automobile public liability and property damage which is not subject to the regulations of the Interstate Commerce Commission, the Railroad Commission of Texas, or other similar bodies in the various states, such exchange may provide by agreement that the premium or premium deposit specified in the policy contract shall constitute the subscriber's entire liability through the exchange while, but only while, it maintains a free surplus of not less than Fifty Thousand (\$50,000.00) Dollars if only one kind of insurance is exchanged, with an additional Ten Thousand (\$10,000.00) Dollars of free surplus for each additional kind of insurance exchanged (including automobile public liability and property damage which is not subject to the regulations of the Interstate Commerce Commission, the Railroad Commission of Texas, or other similar bodies in the various states), but not more than One Hundred Thousand (\$100,000.00) Dollars surplus shall be required.

5. The location of the office or offices from which such contracts or agreements are to be issued.

As to all classes of insurance permitted to be written under the provisions of this chapter, such verified declaration shall disclose the following:

(a) In case of workmen's compensation insurance, that applications have been made for indemnity by at least fifty (50) separate subscribers who have not less than two thousand (2,000) employees, as represented by executed contracts or bona fide applications to become concurrently effective.

(b) As to all other classes of insurance permitted to be written under the provisions of this chapter, that applications for indemnity have been made by at least seventy-five (75) separate subscribers for each class of risk to be exchanged, aggregating not less than Five Hundred Thousand (\$500,000.00) Dollars as to each class of risk, as represented by executed contracts or bona fide applications to become concurrently effective.

Art. 19.04. Service of Process

Concurrently with the filing of such declaration, the attorney shall file with the Board of Insurance Commissioners an instrument in writing executed by him for said subscribers conditioned that upon the issuance of certificates of authority as hereinafter provided, service of process may be had upon the Chairman of such Board in all suits in this State arising out of such policies, contracts or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney. Three copies of such process shall be served and said Chairman of such Board shall file one copy, forward one copy to said attorney, and return one copy with his admission of service. It is provided, however, that in lieu of the method hereinabove provided, service of process may be had upon such attorney in fact in all suits, which service shall likewise be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney. If said attorney in fact be a corporation, either foreign or domestic, or joint stock company, or association, service of process thereon may be had in any manner provided by general law for service of process on corporations, joint stock companies, or associations.

Art. 19.05. Statement of Indemnity

Such attorney shall file with the Board of Insurance Commissioners a statement under the oath of such attorney showing the maximum amount of indemnity upon any single risk, and such attorney shall, whenever and as often as the same shall be required, file with such Board a statement verified by his oath to the effect that he has examined the commercial rating of such subscribers as shown by the reference book of a commercial agency having at least one hundred thousand (100,000) subscribers, and that from such examination or from other information in his possession it appears that no subscriber has assumed on any single risk an amount greater than ten (10%) per cent of the net worth of such subscriber.

Art. 19.06. Financial Requirements

There shall be maintained at all times such reserves as are required, or which, by the laws of this State or by the lawful rules and regulations of the Board of Insurance Commissioners, hereafter may be required, to be maintained by stock insurance companies transacting the same kind or kinds of insurance business.

There shall be maintained at all times assets in a sum sufficient to discharge all liabilities, including reserves, and to provide a surplus over all liabilities, including reserves, of not less than Fifty Thousand (\$50,000.00) Dollars, and if at any time such surplus shall not equal that amount the attorney may make up such deficiency in the manner provided by Article 19.07 of this chapter.

The required assets of such exchanges shall be maintained in cash or securities of the kind in which general casualty companies are authorized by law to invest or lend their funds.

If fidelity and surety bond insurance is exchanged in this State by any reciprocal exchange, there shall be kept on deposit with the State Treasurer of Texas, money, bonds, or other securities, in an amount not less than Fifty Thousand (\$50,000.00) Dollars. Such securities shall be approved by the Board of Insurance Commissioners, and this amount shall be kept intact at all times. Any foreign exchange writing fidelity and surety bonds in this State shall file with the Board of Insurance Commissioners evidence, satisfactory to the Board of Insurance Commissioners, that it has on deposit with the State Treasurer or other proper officials of its home state or in escrow under his supervision and control in some reliable bank or trust company One Hundred Thousand (\$100,000.00) Dollars or more, in money, bonds or other securities for the protection of its policyholders; provided, further, that if said bonds and securities herein referred to are not acceptable to and approved by the Board of Insurance Commissioners of Texas, said Board shall have the right and authority to deny the attorney in fact a certificate of authority.

Art. 19.07. May Advance Money

Any attorney in fact of such exchange may advance to such exchange any sum or sums of money necessary for the purpose of its business or to enable it to comply with any requirement of law, and such moneys and interest thereon as may have been agreed upon, not exceeding ten (10%) per cent per annum, shall be payable, subject to the approval of the Board of Insurance Commissioners (which approval shall not be arbitrarily refused), only out of the surplus remaining, after providing for all reserves, other liabilities and required surplus, and shall not otherwise be a liability or claim against the exchange or any of its assets. No commission or promotion expenses, or other bonus, shall be paid in connection with the advance of any such money to the exchange, and the amount of all such advances shall be reported in each annual statement.

Art. 19.08. Financial Report

Such attorney shall make an annual report to the Board of Insurance Commissioners for each calendar year, which report shall be made on or before March 1st, for the previous calendar year ending December 31, showing the financial condition of affairs at the office where such contracts are issued is in accordance with the standard of solvency provided for herein, and shall furnish such additional information and reports as may be required to show the total premiums or deposits collected, the total losses paid, the total amounts returned to subscribers, and the amounts retained for expenses. Such attorney shall not be required to furnish the name and address of any subscriber. The business affairs and assets of said reciprocal or interinsurance exchanges, as shown at the office of the attorney thereof, shall be subject to examination by such Board.

Art. 19.09. Any Corporation May Exchange

Any corporation, public, private or municipal, now or hereafter organized under the laws of this State, shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority to exchange insurance contracts of the kind and character herein mentioned. The right to exchange such contracts is hereby declared to be incidental to the purpose for which such corporations are organized and as much granted as the rights and powers expressly conferred.

Art. 19.10. Certificate of Authority

Such attorney by whom or through whom are issued any policies of or contracts for indemnity of the character referred to herein shall procure from the Board of Insurance Commissioners annually a certificate of authority stating that all of the requirements have been complied with, and upon such compliance and the payment of the fees required by law, the Board of Insurance Commissioners shall issue such certificate of authority. Such Board of Insurance Commissioners may revoke or suspend any certificate of authority issued hereunder in case of breach of any condition imposed by this law, after reasonable written notice has been given said attorney so that he may appear and show cause why action should not be taken; provided, that said attorney by whom and through whom are issued any policies of or contracts for indemnity of the character herein referred to shall have the right of appeal to any District Court of Travis County, Texas, and shall have twenty (20) days from the date of any adverse ruling to effect such appeal; and the further right of appeal by any such attorney from the ruling or decision of any such District Court is hereby expressly granted. Any attorney who may have procured a certificate of authority hereunder shall renew same annually thereafter. Any certificate of authority shall continue in effect until the new certificate of authority be issued or specifically refused

Art. 19.11. Fees and Taxes

The schedule of fees set out in Article 4.07 of this code, so far as pertinent, shall apply to reciprocal exchanges and their attorneys in fact. Said exchanges shall pay a tax of three and five-tenths (3.5%) per cent on all premiums collected, except fire premiums, and except personal accident insurance or health and accident insurance premiums, under the provisions of Article 4.02 of this code, subject to the reduction by investment in Texas securities as therein provided; and exchanges writing personal accident insurance, or health and accident insurance, shall pay a tax of one (1%) per cent of such premiums collected under the provisions of and in accordance with the terms of Article 4.04 of this code. Exchanges writing workmen's compensation insurance shall pay a further tax of three-fifths of one ($\frac{3}{5}$ of 1%) per cent, or such lesser amount as the Board of Insurance Commissioners may assess, on workmen's compensation premiums collected in this State under the provisions of Article 5.68 of this code. An additional tax of one-fifth of one ($\frac{1}{5}$ of 1%) per cent, or such lesser amount as the Board of Insurance Commissioners may assess, shall be paid by such exchanges on gross premiums collected for motor vehicle insurance under the provisions of Article 5.12 of this code.

Art. 19.12. What Insurance Law Applies

Except as provided in this chapter, no insurance law of this State shall apply to the exchange of such indemnity contracts unless reciprocal or interinsurance exchanges are specifically mentioned in such other laws.

CHAPTER TWENTY

GROUP HOSPITAL SERVICE

Art.

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- 20.02. Supervision; Requirements.
- 20.03. Deposit.
- 20.04. Officers'; Employees' Bond.
- 20.05. Payment of Claims; Cancellation of Certificate.
- 20.06. Dissolution.
- 20.07. Method of Dissolution.
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- 20.09. Applications.
- 20.10. Corporations Nonprofit; Salaries; Funds; Investments.
- 20.11. Authority of Corporation to Contract.
- 20.12. Prohibition Against Contracting for Medical Services.
- 20.13. Personnel of Directors.
- 20.14. Supervision.
- 20.15. Approval of Rates.
- 20.16. Membership Certificates.
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- 20.19. Reports to Board.
- 20.20. Expenses of Directors; Meetings.
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Art. 20.01. Nonprofit Corporations for Group Hospital Service; Incorporation

Any seven (7) or more persons, a majority of whom are superintendents of hospitals or physicians or surgeons licensed by the State Board of Medical Examiners, upon application to the Secretary of State of the State of Texas for a corporate charter may be incorporated for the purpose of establishing, maintaining and operating a nonprofit hospital service plan, whereby hospital care may be provided by said corporation through an established hospital or hospitals, and sanitariums with which it has contracted for such care, as is hereinafter defined.

Art. 20.02. Supervision; Requirements

All corporations organized under the provisions of this chapter 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 chapter, 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.

Art. 20.03. Deposit

Each such corporation shall place with the State Treasurer through the Board of Insurance Commissioners a deposit equal to One Hundred (\$100.00) Dollars for each one thousand (1,000) of its members and fractional part of such number, provided that the maximum deposit shall be Two Thousand (\$2,000.00) Dollars. 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.

Art. 20.04. Officers'; Employees' Bond

Each such corporation shall furnish a bond for the officer or employee responsible for the handling of the funds, the bond to be in some Surety company licensed by the Board of Insurance Commissioners to do business in Texas, and the bond to be in a minimum amount of One Thousand (\$1,000.00) Dollars, to be at all times at least equal to the assets on hand, with a maximum bond of Twenty-five Thousand (\$25,000.00) Dollars. In addition, it shall furnish on all employees who have access to any of its funds, separate bonds, or a blanket bond, in amounts to be reasonably fixed by the Board, with a minimum of Five Hundred (\$500.00) Dollars, and a maximum of Ten Thousand (\$10,000.00) Dollars. All such bonds shall be made payable to the Board of Insurance Commissioners for the use and benefit of the corporation.

Art. 20.05. Payment of Claims; Cancellation of Certificate

All claims under certificates shall 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 claim 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 article.

Art. 20.06. Dissolution

Any dissolution or liquidation of any such corporation subject to the provisions of this chapter shall be under the supervision of the Board of Insurance Commissioners. In case of dissolution of any group formed under the provisions of this chapter, certificate holders of such group shall be given priority over all other claims except cost of liquidation.

Art. 20.07. Method of Dissolution

Any such corporation operating under this chapter 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 chapter is found to be insolvent, or to have violated the provisions of this chapter, 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 Commissioners, or, in appropriate cases, under the direction of a court of competent jurisdiction in Travis County.

Art. 20.08. Fees

The Board of Insurance Commissioners shall charge a fee of Twenty (\$20.00) Dollars for filing the annual statement of each corporation operating under this chapter, and a fee of One (\$1.00) Dollar for the issuance of each certificate of authority to such corporation.

Art. 20.09. Applications

Any such corporation when organized shall be authorized to accept applicants, who may become members of said corporations furnishing group hospital service under a contract, which shall entitle each member to such hospital care for such period of time as is provided therein; and that such corporations shall be governed by this chapter and shall not be construed as being engaged in the business of insurance under the laws of this State. Such corporations organized and operated under the provisions of this chapter shall not be required by any department of this State to post bond, or place deposits with any department of this State to begin and/or operate under this chapter, except as may be otherwise required in this chapter, and the provisions of the other chapters of this code are hereby declared inapplicable to corporations organized and/or operated under this chapter.

Art. 20.10. Corporations Nonprofit; Salaries; Funds; Investments

Such 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 (\$12,500.00) Dollars 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.

Art. 20.11. Authority of Corporation to Contract

Such corporations shall have authority to contract with hospitals charging for services rendered, in such manner as to assure to each person holding a contract of said corporation the furnishing of such hospital care as may be agreed upon in the contract between said corporation and said member, with the right to said corporation to limit in said contract the types of disease for which it shall furnish hospital care.

Art. 20.12. Prohibition Against Contracting for Medical Services

Such corporations shall not contract to furnish to the member a physician or any medical services, nor shall said corporation contract to practice medicine in any manner, nor shall said corporation control or attempt to control the relations existing between said member and his or her physician, but said corporation shall confine its activities to rendering hospital service only through such type of hospitals with whom it has contracts, without restricting the right of the patient to obtain the services of any licensed doctor of medicine.

Art. 20.13. Personnel of Directors

At least a majority of the directors of such corporation must be at all times directors, superintendents or trustees of hospitals, which have contracted or may contract with such corporation to render its subscribers hospital service.

Art. 20.14. Supervision

Every such corporation shall, before accepting applications for membership in said nonprofit hospital service plan, submit to the Board of Insurance Commissioners a plan of operation, together with a schedule of its dues to be charged and the amount of hospital service contracted to be rendered; which plan shall first be approved by the Board as fair and reasonable before said corporation shall engage in business.

Art. 20.15. Approval of Rates

The Board of Insurance Commissioners shall likewise approve the rates of payment to be made by said corporations to hospitals for the rendering of hospital care to the members of said corporation as being reasonable and just. Said hospitals shall guarantee the benefits of the certificates of membership issued by the corporation.

Art. 20.16. Membership Certificates

Every such corporation shall issue to its members certificates of membership, setting forth the contract between the corporation and the member, and the period of such service, and the rate per day or week payable by said corporation for hospital service rendered to said member at any hospital other than the hospitals with which said corporation shall have contracted.

Art. 20.17. Bond of Treasurer

The treasurer of such corporation shall be required to give a fidelity bond with corporation surety in such sum as may be determined by the officers of said corporation for the faithful handling of the funds of said

corporation and all funds collected from members or subscribers of said corporation shall be deposited to the account of said corporation in a bank, which is a State depository.

Art. 20.18. Finance Procedure

Such corporation shall not pay any of the funds collected from members or subscribers to any hospital until after said hospitals shall have rendered the necessary hospital care to such subscriber or member.

Art. 20.19. Reports to Board

Every such corporation shall annually on or before the first day of March file in the office of the Board of Insurance Commissioners a statement verified by at least two (2) of the principal officers of said corporation, showing its condition on the 31st day of December then next preceding. The report to the Board shall include an itemization of all expenses incurred for the period shown in the report, which expenses shall be in all things approved by said Board. If the Board finds any expense item unnecessary or unreasonable it shall make necessary rules eliminating same and the Board is expressly authorized and empowered to provide for the expenses to be incurred and the amounts which must be within the limits provided for in this chapter.

Art. 20.20. Expenses of Directors; Meetings

No director of any corporation created under this chapter 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.

Art. 20.21. Examination of Books and Records

Every such corporation shall keep complete books and records, showing all funds collected and disbursed, and all books and records shall be subject to examination by the Board of Insurance Commissioners annually, the expense of such examination to be borne by said corporation.

CHAPTER TWENTY-ONE

GENERAL PROVISIONS

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SUBCHAPTER A. AGENTS AND AGENTS' LICENSES

Art. 21.01. Certificate of Authority

It shall not be lawful for any person to act within this State, as agent or otherwise, in soliciting or receiving applications for insurance of any kind whatever, or in any manner to aid in the transaction of the business of any insurance company incorporated in this State, or out of it, without first procuring a certificate of authority from the Board.

Art. 21.02. Who Are Agents

Any person who solicits insurance on behalf of any insurance company, whether incorporated under the laws of this or any other state or foreign government, or who takes or transmits other than for himself any application for insurance or any policy of insurance to or from such company, or who advertises or otherwise gives notice that he will receive or transmit the same, or who shall receive or deliver a policy of insurance of any such company, or who shall examine or inspect any risk, or receive, or collect, or transmit any premium of insurance, or make or forward any diagram of any building or buildings, or do or perform any other act or thing in the making or consummating of any contract of insurance for or with any such insurance company other than for himself, or who shall examine into, or adjust, or aid in adjusting, any loss for or on behalf of any such insurance company, whether any of such acts shall be done at the instance or request, or by the employment of such insurance company, or of, or by, any broker or other person, shall be held to be the agent of the company for which the act is done, or the risk is taken, as far as relates to all the liabilities, duties, requirements and penalties set forth in this chapter. The provisions of this subchapter shall not apply to citizens of this State who arbitrate in the adjustment of losses between the insurers and insured, nor to the adjustment of particular or general average losses of vessels or cargoes by marine adjusters who have paid an occupation tax of Two Hundred (\$200.00) Dollars for the year in which the adjustment is made, nor to practicing attorneys at law in the State of Texas, acting in the regular transaction of their business as such attorneys at law, and who are not local agents, nor acting as adjusters for any insurance company. Any person who shall do any of the acts mentioned in this article for or on behalf of any insurance company without such company having first complied with the requirements of the laws of this State, shall be personally liable to the holder of any policy of insurance in respect of which such act was done for any loss covered by the same.

Art. 21.03. Assessment of Taxes

Whenever any person shall do or perform within this State any of the acts mentioned in the preceding article for or on behalf of any insurance company therein referred to, such company shall be held to be doing business in this State and shall be subject to the same taxes, state, county and municipal, as insurance companies that have been legally qualified and admitted to do business in this State by agents or otherwise are subject, the same to be assessed and collected as taxes are assessed and collected against such companies; and such persons so doing or performing any of such acts or things shall be personally liable for such taxes.

Art. 21.04. Solicitor Deemed Company's Agents

Any person who shall solicit an application for insurance upon the life of another shall in any controversy between the assured and his beneficiary and the company issuing any policy upon such application be regarded as the agent of the company, and not the agent of the insured, but such agent shall not have the power to waive, change or alter any of the terms or conditions of the application or policy.

Art. 21.05. Who May Not Be Agents

No corporation or stock company shall be licensed or granted a certificate of authority as the agent or representative of any life insurance company in soliciting, selling or in any manner placing life insurance policies or contracts in the State. No life insurance company shall be granted a certificate of authority to transact business in this State which has or is bound by any valid subsisting contract with any other corporation, by virtue of which such other corporation is entitled to receive, directly or indirectly, any percentage or portion of the premium or other income of such life insurance company for any period. No person shall be granted a certificate of authority as the agent of any life insurance company who enters into any contract with any corporation other than such life insurance company, by virtue of which such other corporation is entitled to receive, directly or indirectly, any compensation earned by him as agent for such life insurance company, or any percentage or portion thereof for any period.

Art. 21.06. Certificates for Agents

Each such foreign insurance company shall, by resolution of its board of directors, designate some officer or agent who is empowered to appoint or employ its agents or solicitors in this State, and such officer or agent shall promptly notify the Board in writing of the name, title and address of each person so appointed or employed. Upon receipt of this notice, if such person is of good reputation and character, the Board shall issue to him a certificate which shall include a copy of the certificate of authority authorizing the company requesting it to do business in this State, and the name and title of the person to whom the certificate is issued. Such certificate, unless sooner revoked by the Board for cause or cancelled at the request of the company employing the holder thereof, shall continue in force until the first day of March next after its issuance, and must be renewed annually.

Art. 21.07. Licensing of Agents

Sec. 1. Application.—Hereafter when any person shall desire to become an agent for a life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, or association, or organization, local mutual aid associa-

tion, or statewide mutual association, soliciting or writing insurance in the State of Texas, as the term agent is elsewhere defined in the law, he shall, in such form and giving such information as may be required, make application to the Board of Insurance Commissioners for a license to act as such agent. After the Board of Insurance Commissioners shall determine that such person is of good character and reputation, it shall issue the license to such person in such form as it may prepare.

Sec. 2. Annual License; Surrender or Cancellation.—Any license so issued by the Board of Insurance Commissioners to any person shall remain in force and effect for a period of one year; at the end of which time he may be issued a new license. Such agent may at any time he desires surrender, voluntarily, his license by filing notice with such Board of Insurance Commissioners or said license may be cancelled by the Board of Insurance Commissioners for cause, or if such person shall not have outstanding a legal and definite appointment by some life insurance company, life and accident, health and accident or life, health and accident insurance company, or association, or organization, or local mutual aid association, or statewide mutual association soliciting or writing insurance in the State of Texas, to act as its agent, in which latter event the license shall be forfeited.

Sec. 3. Notice to Board of Persons Appointed.—When any life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, or association, or organization, or local mutual aid association, or statewide mutual association soliciting or writing business in this State shall employ any such person who has received such license, as its agent, such company shall notify the Board of Insurance Commissioners of such appointment and employment and thereafter such person shall prima facie be deemed, for the purposes of this article, to be the agent of such life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, or association, or organization, or local mutual aid association, or statewide mutual association for a period of twelve (12) months and/or until such employment and appointment has been terminated and withdrawn under other provisions of this article.

Sec. 4. Cancellation of Licenses.—It shall be the duty of the Board of Insurance Commissioners to make diligent inquiry into the fitness of agents to continue as such, and to cancel a license once issued, or to refuse the application for a new license of any person found not to be of good character or reputation, or who shall willfully violate any of the provisions of this article, or other of the insurance laws of the State of Texas. Before cancelling, for cause, any license issued, the Board shall notify the licensee to appear at Austin, Travis County, Texas, at any named date after ten (10) days and show cause why the license should not be cancelled, and shall hear what the licensee may have to offer touching the question of cancellation and the cause therefor. Any licensee whose license is cancelled, or any applicant to whom a license is refused may have redress in the courts as in other civil suits.

Sec. 5. License Required as Precedent to Transacting Business.—No person shall be authorized to engage in business as the agent of any life insurance company, accident insurance company, life and accident, health and accident or life, health and accident insurance company, or association, or organization, local mutual aid association, or statewide mutual association soliciting or writing business in this State, until he shall have procured a license from the Board of Insurance Commissioners as herein provided, and no such company shall appoint any person to act as its agent or solicitor unless such person shall have first obtained a

license under the provisions hereof, and no person who shall have obtained a license as such agent shall engage in business as such agent, or shall have been appointed to act as such agent by some duly authorized life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, or association, or organization, local mutual aid association, or statewide mutual association, nor shall he under any circumstances solicit or write insurance for any person or any company not authorized to do a life, health or accident business in Texas.

Sec. 6. Fees and Use of Funds.—It shall be the duty of the Life Insurance Commissioner to collect from every agent of any life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, or association or organization, local mutual aid association or statewide mutual association soliciting or writing insurance in the State of Texas under the provisions of this article, an annual fee of Two (\$2.00) Dollars, which fees shall constitute a fund to be used by the Life Insurance Commissioner to enforce the provisions of this article and all laws of this State governing and regulating agents of such insurance companies; and the Life Insurance Commissioner is hereby given full power and authorized under authority to use any portion of the fund herein created for the purpose of enforcing the provisions of this article and any and all such laws; and said Commissioner is authorized to employ such person or persons as he may deem necessary to investigate and make reports upon any and all alleged violations of said laws and misconduct on the part of such agents and to pay the salaries and expenses of such person or persons so designated by him and all office employees and expenses necessary in the enforcement of this article out of the funds created hereunder and such person or persons so appointed by the Commissioner are hereby authorized and empowered to administer the oath and to examine under oath any person deemed necessary in gathering information and evidence and to have the same reduced to writing if deemed necessary and all such expenses shall be paid out of said fund. If any residue for any years shall remain in said fund over and above the amount necessary to carry on the work and investigation and pay the expenses herein provided for, the same shall be carried over to the following year or years and used in the continuation of the enforcement of this article and the insurance laws of this State and all such funds are hereby appropriated for such purpose. The funds collected under this provision shall be paid into the State Treasury at least once each week and kept in a special fund and shall be paid out for salaries, traveling expenses, office expenses and other incidental expenses incurred by the Commissioner hereunder upon proper account duly approved by the Life Insurance Commissioner.

Sec. 7. Annual License.—Any agent complying with the terms of this article shall be licensed annually as of date March 31, it being the intent of this article to have all licenses renewed March 31 of each year. The licenses of all agents licensed under the terms of this article shall expire March 31 of each year; provided, however, that each license in force at the effective date of this code shall remain in force until it expires by its terms or is revoked or suspended according to law.

Art. 21.08. Renewal or Service Commissions to Agents of Life Companies Discontinuing Business in State; Statements and Reports

If any life insurance company now engaged or which hereafter may be engaged in the business of issuing policies of life insurance upon the lives of citizens of this State shall discontinue such business, it shall

nevertheless continue to be liable for the payment of renewal or service commissions on policies of life insurance theretofore written in accordance with the terms of its agency contracts theretofore made with agents residing in the State of Texas.

Every such company shall furnish monthly to each person who may be entitled to receive service or renewal commissions from such company a statement showing such policies written by such person for such company as shall have terminated during the month for which the statement is made, and shall furnish to each such person not less than quarterly a detailed statement of all policies written by such person for such company on the lives of residents of the State of Texas, showing the policies in force, the policies which have terminated, and the reason for termination. Provided, however, that no such statements need be furnished after the period during which service or renewal commissions are payable has ended as to all of the policies written by such person for such company.

In any suit against any such company for the recovery of service or renewal commissions, it shall be presumed that all policies written in such company upon the lives of residents of Texas by the person bringing such suit have continued in effect unless and until the contrary is proven by the defendant by competent evidence.

Art. 21.09. Resident Agents, Companies Excepted

Any fire, fire and marine, marine, tornado, rent, accident, casualty, liability, health, elevator, disability, plate glass, burglary, bonding, title, surety, or fidelity insurance company, legally authorized to do business in this State is hereby prohibited from authorizing or allowing any person, agent, firm or corporation that is a non-resident of the State of Texas to issue, or cause to be issued, to sign or countersign, or to deliver, or cause to be delivered, any policy or policies of insurance on property, person or persons located in this State, except through regularly licensed local recording agents of such companies in Texas. By the term "Local Recording Agent" is meant a person or firm engaged in soliciting and writing insurance, being authorized by an insurance company or insurance carrier including Fidelity and Surety Companies to solicit business and to write, sign, execute and deliver policies of insurance and to bind companies on insurance risks, and who maintains an office and a record of such business and the transactions which are involved, who collects premiums on such business and otherwise performs the customary duties of a local recording agent representing an insurance carrier in its relation with the public.

This law shall not apply to property owned by the railroad companies or other common carriers. Upon oath made in writing by any person that he can not procure insurance on property through such agents in Texas it shall be lawful for any insurance company not having an agent in Texas to insure property of any person upon application of said person, upon his filing said oath with the county clerk of the county in which such person resides, and with the Board of Insurance Commissioners.

This article shall not apply to insurance companies whose general plan of operation does not contemplate the use of local recording agents, and such companies may issue policies signed by any of their other resident licensed agents.

Art. 21.10. Affidavit of Company

Before a certificate or license to any fire, fire and marine, marine, tornado, rent, accident, casualty, liability, health, elevator, disability, plate glass, burglary, bonding, title, surety or fidelity insurance company is issued authorizing it to transact business in this State, the Board shall

require in every case, in addition to the other requirements already made and provided by the law, that each such insurance company shall file with the Board an affidavit that it has not violated any provision of Articles 21.09, 21.11, 21.12, and 21.13 of this code.

Art. 21.11. Commissions to Non-Residents

Any person, agent, firm, or corporation licensed by the Board to act as a fire and marine, marine, tornado, rent, accident, casualty, liability, health, elevator, disability, plate glass, burglary, bonding, title, surety or fidelity insurance agent in the State of Texas, is hereby prohibited from paying, directly or indirectly, any commission, brokerage or other valuable consideration on account of any policy or policies covering property, person or persons in this State, to any person, persons, agent, firm or corporation that is a non-resident of this State, or to any person or persons, agent, firm or corporation not duly licensed by the Board as a fire, fire and marine, marine, tornado, rent, accident, casualty, liability, health, elevator, disability, plate glass, burglary, bonding, title, surety or fidelity insurance agent.

Art. 21.12. Board May Examine

The Board is hereby authorized, and it is made its duty, at the expense of the company investigating, to examine at the head office, located within the United States of America, all books, records and papers of such company and also any officers or employees thereof under oath, as to violations of this article or Articles 21.09, 21.10, 21.11, or 21.13 of this code and the Board is further empowered to examine person or persons, administer oaths, and send for papers and records, and failure or refusal upon the part of any life, fire and marine, marine, tornado, rent, accident, casualty, liability, health, elevator, disability, plate glass, burglary, bonding, title, surety or fidelity insurance company, person or persons, agent, firm or corporation, licensed to do business in the State of Texas to appear before the Board when requested to do so, or to produce records and papers, or answer under oath, shall subject such fire, fire and marine, marine, tornado, rent, accident, casualty, liability, health, elevator, disability, plate glass, burglary, bonding, title, surety or fidelity insurance company, person, persons, agent, firm or corporation to the penalties of Article 21.13 of this code.

Art. 21.13. Penalty for Violation

Whenever the Board shall have or receive notice or information of any violation of any provision of Articles 21.09 to 21.12, inclusive, of this code, it shall immediately investigate, or cause to be investigated, such violation, and if a fire, fire and marine, marine, tornado, rent, accident, casualty, liability, health, elevator, disability, plate glass, burglary, bonding, title, surety or fidelity insurance company has violated any of such provisions, the Board shall immediately revoke its license for not less than three (3) months nor more than six (6) months for the first offense and, for each offense thereafter, for not less than one year; and if any person, agent, firm or corporation licensed by such Board as a fire, fire and marine, marine, tornado, rent, accident, casualty, liability, health, elevator, disability, plate glass, burglary, bonding, title, surety or fidelity insurance agent shall violate or cause to be violated any provision of Articles 21.09 to 21.12, inclusive, of this code, he shall, for the first offense, have his license revoked for all companies for which he has been licensed, for not less than three months, and for the second offense he shall have his license revoked for all companies for which he is licensed

and shall not thereafter be licensed for any company for one (1) year from date of such revocation.

Art. 21.14. Licensing of Local Recording Agents and Solicitors; Life, Health and Accident Insurance Excepted; Other Exceptions

Sec. 1. Classes of Agents.—Insurance agents, as that term is defined in the laws of this State, shall for the purpose of this article be divided into two classes: Local Recording Agents and Solicitors.

Sec. 2. Definitions; Certain Orders, Societies or Associations Not Affected.—By the term "Local Recording Agent" is meant a person or firm engaged in soliciting and writing insurance, being authorized by an insurance company or insurance carrier, including fidelity and surety companies, to solicit business and to write, sign, execute, and deliver policies of insurance, and to bind companies on insurance risks, and who maintain an office and a record of such business and the transactions which are involved, who collect premiums on such business and otherwise perform the customary duties of a local recording agent representing an insurance carrier in its relation with the public; or a person or firm engaged in soliciting and writing insurance, being authorized by an insurance company or insurance carrier, including fidelity and surety companies, to solicit business, and to forward applications for insurance to the home office of the insurance companies and insurance carriers, where the insurance company's and insurance carrier's general plan of operation in this State provides for the appointment and compensation of agents for insurance and for the execution of policies of insurance by the home office of the insurance company or insurance carrier, or by a supervisory office of such insurance company or insurance carrier, and who maintain an office and a record of such business and the transactions which are involved, and who collect premiums on such business and otherwise qualify and perform the customary duties of a local recording agent representing an insurance carrier in its relation with the public.

By the term "Solicitor" is meant a person who is a bona fide solicitor in the office of, and engaged in the business of soliciting insurance on behalf of a local recording agent, and who offices with such local recording agent, and who does not sign and execute policies of insurance, and who does not maintain company records of such transactions. This shall not be construed to make a solicitor of a local recording agent, who places business of a class which the rules of the company or carrier require to be placed on application or to be written in a supervisory office.

By the term "Board", as used in this article, is meant the Board of Insurance Commissioners.

Where reference is made in this article to "Company" or "Carrier" such reference means any insurance company, corporation, inter-insurance exchange, mutual, reciprocal, association, Lloyds or other insurance carrier licensed to transact business in the State of Texas other than as excepted herein.

Nothing contained in this article shall be so construed as to affect or apply to orders, societies, or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations in the same or similar lines of business, and the ladies' societies, or ladies' auxiliary to such orders, societies or associations, or any secretary of a Labor Union or organization, or any secretary or agent of any fraternal benefit society, which does not operate at a profit.

Sec. 3. Application for License; To Whom License May Be Issued; Corporations Not to Be Licensed.—When any person or firm shall desire to engage in business as a local recording agent for an insurance com-

pany or insurance carrier, he shall make application for a license to the Board of Insurance Commissioners, in such form as the Board may require, which application shall require a signed endorsement by General or State or Special Agent of a qualified insurance company or insurance carrier that applicant is a resident of Texas, trustworthy, of good character and good reputation, and is worthy of a license. The Board is authorized to issue licenses to firms or to individuals engaging as partners in the insurance business, provided the names of all persons interested in such firm are named in the license, and each named as active in the business of the partnership qualify, and it be established that none not active have interest in partnership principally to have written and be compensated therefor for insurance on property controlled through ownership, mortgage or sale, family relationship, or employment; and provided further, that all licensed agents must be residents of Texas. Provided, that a person who may reside in a town through which the State line may run and whose residence is in the town in the adjoining State may be licensed, if his business office is being maintained in this State. All persons acting as agent or solicitor for health and accident insurance within the provisions hereof, and who represent only fire and casualty companies, and not life insurance companies, shall be required to procure only one license and such license as is required under the provisions of this article. The Board shall not issue a license to a corporation.

Sec. 4. Acting Without License Forbidden.—It shall be unlawful for any person or firm or partnership to act as a local recording agent or solicitor in procuring business for any insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyds or other insurance carrier, until he shall have in force the license provided for herein.

Sec. 5. Active Agents or Solicitors Only to Be Licensed.—No license shall be granted to any person, firm or partnership, either as a local recording agent or solicitor, for the purpose of writing any form of insurance, unless it is found by the Board of Insurance Commissioners that such person or firm is, or intends to be, actively engaged in the soliciting or writing of insurance from the public generally; that each person or individual of a firm is a resident of Texas, of good character and good reputation, worthy of a license, and is to be actively engaged in good faith in the business of insurance, and that application is not being made in order to evade the laws against rebating and discrimination either for the applicant or for some other person. Nothing herein contained shall prohibit his insuring his own property or properties in which he has an interest; but it is the intent of this section to prohibit coercion of insurance and to preserve to each citizen the right to choose his own agent or insurance carrier, and to prohibit the licensing of an individual or firm to engage in the insurance business principally to handle business which he controls only through ownership, mortgage or sale, family relationship or employment, which shall be taken to mean that an applicant who is making an original application for license shall show the Board of Insurance Commissioners that he has a bona fide intention to engage in business in which at least twenty-five (25%) per cent of the total volume of premiums shall be derived from persons other than himself and from property other than that on which the applicant shall control the placing of insurance through ownership, mortgage, sale, family relationship or employment; and which shall be taken to mean, in the case of application for renewal of license, that at least twenty-five (25%) per cent of applicant's total volume of premiums, during the year preceding such application for renewal, shall have been derived from persons other than himself and from property other than that on which the applicant

controlled the placing of insurance through ownership, mortgage, sale, family relationship or employment.

Sec. 6. Examination Required; Exceptions.—If applicant for a local recording agent's license has not prior to date of such application, been licensed as a local recording agent, or if the applicant for a solicitor's license has not been licensed as a local recording agent or as a solicitor prior to date of such application, the Board of Insurance Commissioners shall require such applicant to submit to a written examination covering all kinds of insurance or contracts, which license if granted, will permit the applicant to solicit. Any applicant for local recording agent's license who has prior to the date of such application been licensed as a local recording agent, shall be entitled to a local recording agent's license without examination, provided the other requirements of this article are met. Any applicant for solicitor's license who has been licensed as a local recording agent or as a solicitor prior to date of such application, shall be entitled to a solicitor's license without an examination, provided the other requirements of this article are met.

Sec. 6a. Death, Disability or Insolvency; Emergency License Without Examination.—In event of death or disability of a local recording agent or in event a local recording agent is found to be insolvent and unable to pay for premiums coming to his hands as such local recording agent, the Board may issue to an applicant for local recording agent's license an emergency local recording agent's license for a period of not longer than ninety (90) days in any twelve (12) consecutive months without an examination provided the other requirements of this article are met and if it is established to the satisfaction of the Board that such emergency license is necessary for the preservation of the agency assets of a deceased or disabled local recording agent or of an insolvent local recording agent.

Sec. 7. Conduct of Examinations; Notice; Manual of Questions and Answers.—All examinations provided by this article shall be conducted by the Board of Insurance Commissioners, and shall be held not less frequently than one each sixty (60) days every year at times and places prescribed by the Board of Insurance Commissioners, of which applicants shall be notified by the Board of Insurance Commissioners in writing, ten (10) days prior to the date of such examinations, and shall be conducted in writing, except that the applicant upon notice to the Board of Insurance Commissioners shall be entitled to be examined in the county seat of the county of his residence. Provided, further, that printed copies of a manual of questions and answers thereto pertaining to the examination published under the direction of the Board of Insurance Commissioners shall be made available to all companies, general agents, and managers for the use of their prospective agents, to all agents for the use of their prospective solicitors in preparing for such examination. The questions to be asked on such examination shall be based upon the questions and answers contained in the manual.

Sec. 8. Expiration of License; Renewal.—Every license issued to a local recording agent or solicitor shall expire on the first day of March each year, unless an application to qualify for the renewal of any such license shall be filed with the Board of Insurance Commissioners and fee paid on or before such date, in which event the license sought to be renewed shall continue in full force and effect until renewed or renewal is refused.

Sec. 9. Fees Payable Before Examination.—Applicants required to be examined shall, at time and place of examination, pay prior to being ex-

amed; for a local recording agent's license in a town or village exceeding five thousand (5,000) population, a fee of Ten (\$10.00) Dollars; for a local recording agent's license in any other place, a fee of Five (\$5.00) Dollars; for a solicitor's license in town or village exceeding five thousand (5,000) population, a fee of Two and 50/100 (\$2.50) Dollars; for a solicitor's license in any other place, a fee of One (\$1.00) Dollar. Population shall be determined according to last Federal Census.

Sec. 10. Renewal Fee.—An applicant for the renewal of a local recording agent's license or for the renewal of a solicitor's license shall pay, at the time the renewal application is filed, a fee of One (\$1.00) Dollar.

Sec. 11. Issuance of License.—Whenever the provisions of this article have been complied with, the Board shall issue to any applicant the license applied for where such applicant shall have satisfactorily passed the examination given by the Board of Insurance Commissioners, and who shall possess the other qualifications required by this article.

Sec. 12. Notice to Insurance Commissioners of Appointment of Local Recording Agent by Insurance Company.—After a person or firm shall have been granted a license as local recording agent in this State, he shall be authorized to act as such local recording agent, only after and during the time such person or firm has been authorized so to do, by an insurance company or carrier having a permit to do business in this State; and when so authorized each company or carrier or its General or State or Special Agent making the appointment shall immediately notify the Board of Insurance Commissioners, in such form as the Board may require, of the appointment, and such person or firm shall be presumed to be the agent for such company in this State until such company or its General or State or Special Agent shall have delivered written notice to the Board of Insurance Commissioners that such appointment has been withdrawn.

Sec. 13. Application for Solicitor's License.—When any local recording agent who has been appointed by an insurance carrier having a permit to do business in this State shall desire to appoint a solicitor in the operation of his business, he and a company jointly shall make application for a license for such solicitor to the Board of Insurance Commissioners, in such form as the Board may require.

Sec. 14. Notice to Insurance Commissioners of Solicitor's Appointment; Authority to Solicit.—No solicitor shall be authorized to solicit insurance until after the Board of Insurance Commissioners shall have been notified by a local recording agent of his appointment, and no local recording agent shall accept business tendered by a solicitor until such local recording agent has given notice to the Board of Insurance Commissioners of such solicitor's appointment as such, and until such solicitor has been licensed by the Board of Insurance Commissioners. No solicitor shall have outstanding at any time a notification of appointment from more than one local recording agent, and a solicitor shall solicit insurance only in the name of and for the account of the local recording agent by whom he has been appointed.

Sec. 15. Fire Insurance in Excess of Value, Writing of Forbidden.—It shall be unlawful for any local recording agent or solicitor for an insurance company or insurance carrier knowingly to grant, write or permit a greater amount of insurance against loss by fire than the reasonable value of the subject of insurance.

Sec. 16. Suspension, Cancellation or Surrender of License.—The license of any local recording agent or solicitor may be suspended or canceled by the Board of Insurance Commissioners, after a hearing follow-

ing not less than ten (10) days' notice shall have been accorded to such local recording agent or solicitor, for violation of this article or of any insurance laws of this State, or if any local recording agent or solicitor shall be guilty of rebating any insurance premium or discriminate as between assureds; or if any local recording agent or solicitor shall fail to account or to pay promptly for premiums coming to his hands as such local recording agent or solicitor, or if it shall be made to appear that such person or firm has obtained a license and is not legally entitled thereto. The license of any local recording agent or solicitor may be voluntarily surrendered upon giving written notice thereof to the Board of Insurance Commissioners, and shall be automatically suspended or cancelled if such local recording agent shall not have outstanding a valid appointment to act as agent for an insurance company or insurance carrier, or if such solicitor shall not have outstanding a valid appointment to act as a solicitor for a local recording agent.

Sec. 17. Notice and Hearing; Witnesses; Books; Records.—The Board shall neither refuse to issue nor to renew, nor to suspend, nor to revoke, any license provided for in this article for any of the causes enumerated herein, unless the applicant or the person accused has been given at least ten (10) days' notice in writing of the specific charge against him, and shall have been given a hearing before the Board. Upon the hearing of such proceeding the applicant or accused shall have the right to be represented by counsel and the Board shall, if it so requests, be represented by the District Attorney or the County Attorney of the county in which the hearing is held. The Board shall have the power to summon witnesses and require the production of books, records, and papers for the purpose of such hearing, and to administer oaths. Any District Court or any Judge of such Court in this State, in term time or in vacation, upon application by the accused or of the Board or a member thereof, may, by order duly entered, require the attendance of witnesses and production of relevant books, records and papers before the Board, in any hearing relating to the refusal, suspension, renewal, or revocation or issuing of any license provided for in this article, and may order the Sheriff or any other peace officer of the county wherein said order is made and entered, to serve such process as may be issued, in order to compel the attendance of witnesses before said Board, for which services so rendered by such officer or officers, the fees and mileage of the Sheriff for all witnesses shall be the same as allowed in criminal cases, and shall be paid from the fund of the Board as herein provided for; however, the officers shall make claim for fees as in criminal cases and be paid upon warrant drawn by the Comptroller as in criminal cases. If the applicant or the accused shall prevail at such hearing, the Board shall grant him the proper relief without delay. Any of the investigations, inquiries or hearings thus authorized may be entertained or held by or before any member or members of the Board of Insurance Commissioners, and the finding or order of such member or members, when approved and confirmed by the Board, shall be deemed a finding or order of the Board. The Board or any member thereof may hold any of such hearings provided for in this article, in Austin or in the County seat of the County of the residence of the applicant or the accused, at the discretion of the Board. If the applicant or accused shall fail or refuse to appear for any hearing, after the notice provided herein, the Board shall have the authority to proceed with such hearing, and enter the proper orders the same as if the applicant or accused were present in person.

Sec. 18. Appeal.—If the said Board shall refuse an application for any license provided for in this article, or shall suspend, revoke or refuse to renew any such license or permit at said hearing, then any such appli-

cant or accused may appeal from said order by filing suit in any of the District Courts of Travis County, Texas, or in any District Court in the County of the applicant's residence, and not elsewhere within twenty (20) days from the date of the order of said Board, such appeal to the District Court shall be by a trial de novo, as such term is commonly used and intended in an appeal from justice court to county court. On the date of the rendition of any such order of the Board, a registered letter containing a copy of such order shall be mailed by the Board to the applicant or the accused involved.

Sec. 19. Notice to Last Address.—Where notice to the applicant or accused is provided for in any part of this article, notice by registered mail to his last known address shall be sufficient.

Sec. 20. Life, Health and Accident Insurance, Inapplicable to; Other Exceptions.—No provisions of this article shall apply to the Life, Health and Accident Insurance business or the Life, Health and Accident Department of the companies engaged therein, nor shall it apply to any of the following, namely:

(a) Any actual full-time home office or salaried traveling representatives of any insurance carrier licensed to do business in Texas.

(b) Any actual attorney in fact and its actual traveling salaried representative as to business transacted through such attorney in fact or salaried representative of any reciprocal exchange or interinsurance exchange admitted to do business in Texas.

(c) Any adjuster of losses, and/or inspector of risks, for an insurance carrier licensed to do business in Texas.

(d) Any General Agent or State Agent or Branch Manager representing an admitted and licensed insurance company or carrier, or insurance companies or carriers, in a supervisory capacity.

(e) The actual attorney in fact for any Lloyds.

(f) All incorporated or unincorporated mutual insurance companies, their agents and representatives, organized and/or operating under and by authority of Chapters 16 and 17 of this code.

(g) Nothing in this entire article shall ever be construed to apply to any member, agent, employee, or representative of any county or farm mutual insurance company as exempted under Chapters 16 and 17 of this code.

Sec. 21. Fees, Disposition of; Appropriations.—The fees herein provided for, when collected, shall be placed with the State Treasurer in a separate fund, which shall be known as the local recording agents' and solicitors' license fund, provided that no expenditures shall be made from said fund except under authority of the Legislature as set forth in the General Appropriation Bill; provided further that no appropriation shall ever be made out of the General Revenue Fund for the purpose of administering this article or any provision thereof.

Sec. 22. Rebates or Inducements Forbidden.—It shall be unlawful for any local recording agent to pay, allow, give or offer to pay, allow or give, directly or indirectly, any rebate of premiums payable, any commission, or any paid employment or contract for service of any kind or anything of value whatsoever, or any valuable consideration or inducement whatever, not specified in the policy or contract of insurance for or on account of the solicitation or negotiation of contracts of insurance on property or risks in this State to any person, firm or corporation, other than a duly licensed solicitor appointed by such local recording agent, or to another local recording agent.

It shall be unlawful for any solicitor to pay, allow or give or offer to pay, allow or give, directly or indirectly, any rebate of premiums payable, any commission, or any paid employment or contract for service of any

kind, or anything of value whatsoever, or any valuable consideration or inducement whatever, not specified in the policy or contract of insurance, for or on account of the solicitation or negotiation of contracts of insurance on property or risks in this State to any person, firm or corporation.

Sec. 23. Repeal; Laws Not in Conflict Not Affected; Act Cumulative.—All laws or parts of laws pertaining to any phase of the insurance business, which are in conflict with this article, shall be and the same are hereby repealed; but all laws, Civil and Criminal, affecting insurance agents, and/or insurance companies or insurance carriers or the insurance business, which are not in conflict herewith, shall not be affected by the provisions of this article; but this article shall be deemed cumulative of such laws.

Sec. 24. Violations of Act.—Any person or any member of any firm who violates any of the provisions of Sections 4, 15 and 22 of this article shall be guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction, shall be punished by a fine of not less than One (\$1.00) Dollar nor more than One Hundred (\$100.00) Dollars.

Sec. 25. Enforcement of Article.—The Attorney General, or any District or County Attorney, or the Board of Insurance Commissioners, may institute any injunction proceeding or such other proceeding to enforce the provisions of this article, and to enjoin any person, firm or corporation from engaging or attempting to engage in any of the business in violation of this article or any of the provisions thereof. The provisions of this section are cumulative of the other penalties or remedies provided for in this article.

Sec. 26. Administration of Article.—The administration of the provision of this article shall be vested in the Board of Insurance Commissioners, and of the administrative officer of the various counties in which the violation of any provision of this article may occur; and the personnel charged with the direct supervision of the article, except the regularly elected law enforcement officers and their appointees, shall be responsible to and serve at the will of the Board of Insurance Commissioners. It shall be the duty of the Board of Insurance Commissioners and the Attorney General, and of the District and County Attorneys in counties where violations of this article may occur, to see that its provisions are at all times obeyed, and to make such investigations as will prevent or detect the violation of any provision thereof. The Board of Insurance Commissioners shall at once lay before the District or County Attorney of the proper county, any evidence which shall come to its knowledge, of criminality or threatened criminality under this article. In the event of the neglect or refusal of such Attorney to institute and prosecute such violation, or to enforce the other remedies provided by this article, the Board shall submit such evidence to the Attorney General, who is hereby authorized to proceed therein with all the rights, privileges and powers conferred by law upon District or County Attorneys. Provided, any person having knowledge of the violation of the provisions of this article may file a complaint for such violation with the proper officers as in other misdemeanor cases. The Board of Insurance Commissioners is given the power and authority, as a requisite for granting or renewing a license to insurance companies or insurance carriers, their local recording agents or solicitors, to require answers under oath to any questions propounded by the said Board or under its authority, and touching any phase of insurance business in the State of Texas in which said insurance company or insurance carrier, or such person or firm, shall be engaged, and to require such person or firm seeking appointment as local recording agent to submit his books, records, and accounts, insofar as they may be mate-

rial to any phase of insurance business, to examination and inspection by the Board or any person acting under its authority.

Art. 21.15. Revocation of Agent's Certificate

Cause for the revocation of the certificate of authority of an agent or solicitor for an insurance company may exist for violation of any of the insurance laws, or if it shall appear to the Board upon due proof, after notice that such agent or solicitor has knowingly deceived or defrauded a policyholder or a person having been solicited for insurance, or that such agent or solicitor has unreasonably failed and neglected to pay over to the company, or its agent entitled thereto, any premium or part thereof collected by him on any policy of insurance or application therefor. The Board shall publish such revocation in such manner as it deems proper for the protection of the public; and no person whose certificate of authority as agent or solicitor has been revoked shall be entitled to again receive a certificate of authority as such agent or solicitor for any insurance company in this State for a period of one year.

SUBCHAPTER B. MISREPRESENTATION AND DISCRIMINATION

Art. 21.16. Misrepresentation by Policyholder

Any provision in any contract or policy of insurance issued or contracted for in this State which provides that the answers or statements made in the application for such contract or in the contract of insurance, if untrue or false, shall render the contract or policy void or voidable, shall be of no effect, and shall not constitute any defense to any suit brought upon such contract, unless it be shown upon the trial thereof that the matter or thing misrepresented was material to the risk or actually contributed to the contingency or event on which said policy became due and payable, and whether it was material and so contributed in any case shall be a question of fact to be determined by the court or jury trying such case.

Art. 21.17. Notice of Misrepresentations

In all suits brought upon insurance contracts or policies hereafter issued or contracted for in this State, no defense based upon misrepresentations made in the applications for, or in obtaining or securing the said contract, shall be valid, unless the defendant shall show on the trial that, within a reasonable time after discovering the falsity of the representations so made, it gave notice to the assured, if living, or, if dead, to the owners or beneficiaries of said contract, that it refused to be bound by the contract or policy; provided, that ninety days shall be a reasonable time; provided, also, that this article shall not be construed as to render available as a defense any immaterial misrepresentation, nor to in any wise modify or affect Article 21.16 of this code.

Art. 21.18. Immaterial Misrepresentation

No recovery upon any life, accident or health insurance policy shall ever be defeated because of any misrepresentation in the application which is of an immaterial fact and which does not affect the risks assumed.

Art. 21.19. Misrepresenting Loss or Death

Any provision in any contract or policy of insurance issued or contracted for in this State which provides that the same shall be void or void-

able, if any misrepresentations or false statements be made in proofs of loss or of death, as the case may be, shall be of no effect, and shall not constitute any defense to any suit brought upon such contract or policy, unless it be shown upon the trial of such suit that the false statement made in such proofs of loss or death was fraudulently made and misrepresented a fact material to the question of the liability of the insurance company upon the contract of insurance sued on, and that the insurance company was thereby misled and caused to waive or lose some valid defense to the policy.

Art. 21.20. Misrepresentation of Policies

No life insurance company doing business in this State, and no officer, director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it, or benefits or advantages to be promised thereby, or the dividends or share of surplus to be received thereon.

Art. 21.21. Discrimination

No insurance company of any kind doing business in this State shall make or permit any distinction or discrimination in favor of individuals between the insured of the same class and of equal expectation of life in the amount of, or payment of, premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits thereon; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as expressed in the policy issued thereon; nor shall any such company, or any officer, agent, solicitor or representative thereof, pay, allow, or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for service of any kind, or anything of value whatsoever, or any valuable consideration or inducement whatever not specified in the policy or contract of insurance; nor shall any such company, or any officer, agent, solicitor or other representative thereof, give, sell or purchase, or offer to give, sell or purchase, as an inducement to insurance, or in connection with any policy of insurance, or in connection with the sale thereof, any stocks, bonds or other securities of the company writing the insurance or of any other insurance company, or of any other corporation, association or partnership, then organized or thereafter to be organized, or any dividends or profits to accrue thereon; nor shall any such company issue any policy containing any special or board contract or similar provision, by the terms of which said policy will share or participate in any special fund derived from a tax or a charge against any portion of the premium on any other policy. Any company or any officer or agent thereof violating the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not less than One Hundred (\$100.00) nor more than Five Hundred (\$500.00) Dollars, and the said company shall, as an additional penalty, forfeit its certificate of authority to do business in this State, and the said agent shall, as an additional penalty, forfeit his license to do business in this State for one (1) year. The company shall not be held liable under this article for any unauthorized act of its agent, unless the company shall acquiesce in such action.

SUBCHAPTER C. RELATING TO LIFE, HEALTH AND ACCIDENT INSURANCE AND BENEFITS**Art. 21.22. Exemption of Insurance Benefits From Seizure Under Process**

Sec. 1. No money or benefits of any kind to be paid or rendered on a weekly, monthly or other periodic or installment basis to the insured or any beneficiary under any policy of insurance issued by a life, health or accident insurance company, including mutual and fraternal insurance, or under any plan or program of annuities and benefits in use by any employer, shall be liable to execution, attachment, garnishment or other process or be seized, taken or appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of the insured or of any beneficiary, either before or after said money or benefits is or are paid or rendered, except for premiums payable on such policy or a debt of the insured secured by a pledge thereof.

Sec. 2. Wherever any policy of insurance or plan or program of annuities and benefits mentioned in Section 1 of this article shall contain a provision against assignment or commutation by any beneficiary thereunder of the money or benefits to be paid or rendered thereunder, or any rights therein, any assignment or commutation or any attempted assignment or commutation by such beneficiary of such money or benefits or rights in violation of such provision shall be wholly void.

Art. 21.23. Forfeiture of Beneficiary's Rights

The interest of a beneficiary in a life insurance policy or contract heretofore or hereafter issued shall be forfeited when the beneficiary is the principal or an accomplice in willfully bringing about the death of the insured. When such is the case, the nearest relative of the insured shall receive said insurance.

Art. 21.24. Policies to Contain Entire Contract

Every policy of insurance issued or delivered within this State by any life insurance company doing business within this State shall contain the entire contract between the parties, and the application therefor may be made a part thereof.

SUBCHAPTER D. CONSOLIDATION, LIQUIDATION, REHABILITATION, REORGANIZATION OR CONSERVATION OF INSURERS**Art. 21.25. What Companies May Consolidate**

Any two (2) or more insurance companies doing a similar line of business which are and have been substantially owned by same controlling stockholders, and which have never been companies actually competing with each other, and where all of them have been previously organized under the laws of this State, may unite or consolidate upon compliance with the terms of this law. Such consolidation shall not be effectuated in violation of the anti-trust and anti-monopoly laws of this State. Before any such consolidation shall take place, the parties holding at least two-thirds of the capital stock of each of the companies shall vote in favor thereof at a separate meeting of the stockholders of each company called for such purpose. Such meeting may be called in the manner provided in the by-laws of the respective companies or the laws under which such companies are organized, for calling special meetings of stockhold-

ers, except that each stockholder shall be notified by mail of the time and place and object of such meeting.

Art. 21.26. Consolidation

Sec. 1. Such companies proposing to consolidate may unite their assets, or any part thereof, and become incorporated in one body under the name of any one or more of such companies or under any other name that may be agreed upon, and issue stock in such corporation to the stockholders of each of the companies consolidated, the actual value of which stock in the new company shall bear the same proportion to the actual value of the stock surrendered by such stockholders as the entire assets of the company surrendering such stock bears to the entire assets of the new company, which value shall be agreed upon by the board of directors of each company; provided, that said stockholders (holding two-thirds of the stock) may at the meeting provided for in the preceding article delegate the valuation of assets to a committee of stockholders appointed by their respective boards of directors; or

Sec. 2. One company may take over all the assets of the other companies proposing to consolidate and issue stock to their stockholders in the proportion that the value of their stock bears to the entire value of the assets of the company in which they are stockholders, and for this purpose the capital stock of such purchasing company may be increased, as now or may be hereafter provided by law.

Sec. 3. In case of consolidation under the first option provided in the first section hereof, the Board shall, upon proof furnished of compliance with the terms hereof and being satisfied that the proposed consolidation is for the best interests of the policyholders of the respective companies and made in accordance with law, and upon the filing of articles of incorporation and other due proceedings had as required by the laws of this State, issue and deliver a charter to such new company.

Sec. 4. Such consolidation shall work a dissolution of the companies absorbed, but shall in nowise prejudice the right of any creditor of any such corporation to have payment of his debt out of the assets and property thereof, nor shall any creditor be thereby deprived of, nor prejudiced in any right of action then pending or existing or which may thereafter arise against said company, and service or summons of the proper officers or agents of such new or reorganized corporation shall be deemed sufficient as to all or any of such companies.

Sec. 5. All policies of insurance outstanding against all such companies shall, by reason of such consolidation, be assumed by the reorganized company, and they shall carry out the terms of such policy on the part of the insurer and be entitled to all the rights and privileges thereof and the reserves accumulating on such policy prior to such consolidation.

Art. 21.27. Plan for Changing Stock Insurance Company to Mutual Insurance Company

Sec. 1. Any stock insurance company which is a domestic company, as defined by law, may become a mutual company owned and controlled by its policyholders, and to that end may carry out a plan for the acquisition of shares of its capital stock; provided, however, that such plan:

(1) Shall enable each stockholder to dispose of the same proportion of his holdings at the same price per share and on the same terms;

(2) Shall have been adopted by a vote of a majority of the directors of such corporation;

(3) Shall have been approved by a vote of stockholders representing a majority of the capital stock at a meeting of stockholders called for the purpose;

(4) Shall have been approved by a majority vote of the policyholders voting at a meeting, called for the purpose of policyholders, each insured in at least One Thousand (\$1,000.00) Dollars and whose insurance shall then be in force and shall have been in force for at least one (1) year prior to such meeting; but no such meeting shall be called for such purpose nor shall such plan be submitted to the policyholders unless and until the plan shall first have been approved and adopted by a majority of the directors of such corporation and approved and adopted by its stockholders representing at least a majority of the capital stock of the corporation at meetings of the directors and stockholders, respectively, duly called and held for the purpose of considering the adoption of such plan, notice of such meeting shall be given by mailing such notice from the home office of such corporation at least thirty days prior to such meeting in a sealed envelope, postage prepaid, addressed to such policyholders at their last known postoffice addresses, and such meeting shall be otherwise provided for and conducted in such manner as shall be provided in such plan; provided, however, that policyholders may vote in person, by proxy or by mail; that all votes shall be cast by ballot and the Chairman of the Board of Insurance Commissioners shall supervise and direct the methods and 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 qualification 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 corporation the result thereof, and with respect thereto shall act under such rules and regulations as shall be prescribed by the Chairman of the Board of Insurance Commissioners; that all necessary expenses incurred by the Chairman of the Board of Insurance Commissioners shall be paid by the corporation as certified to by him; and

(5) Shall have been submitted to the Chairman of the Board of Insurance Commissioners and shall have been approved by him in writing, provided that every payment for the acquisition of any shares of the capital stock of such corporation, the purchase price of which is not fixed by such plan, shall be subject to the approval of the Chairman of the Board of Insurance Commissioners and provided that neither such plan, nor any such payment, shall be approved by the Chairman of the Board of Insurance Commissioners, unless at the time of such approvals respectively the corporation, after deducting the aggregate sum appropriated by such plan, to be paid in cash or other assets of the corporation, for the acquisition of any part or all of its capital stock, and in the case of any payment not fixed by such plan and subject to separate approval as aforesaid after the approval of such plan, after deducting also the amount of such payment, shall be possessed of assets sufficient to equal the entire liability of the corporation, including the net values of its outstanding contracts computed as required by law, and also all funds, contingent reserves, and a surplus over and above all liabilities of not less than Five Hundred Thousand (\$500,000.00) Dollars.

Sec. 2. Acquisition of Shares in Trust; Appointment of Trustees.—If any insurance corporation shall determine to become a mutual insurance corporation in accordance with the provisions of Section 1 of this article, it may, in carrying out any plan to that end under such provisions, acquire any shares of its own stock by gift, bequest or purchase; and until all of such shares are acquired, any shares so acquired shall be acquired in trust for the policyholders of the corporation as hereinafter provided, and shall be assigned and transferred on the books of the corporation to three trustees and be held by them in trust and be voted by

such trustees at all corporate meetings at which stockholders have the right to vote, until all the capital stock of such corporation is acquired, and the purchase price therefor, including all annuity bonds issued on account thereof shall be fully paid off, whereupon the entire capital stock shall be retired and cancelled, and thereupon the corporation shall be and become a mutual insurance corporation without capital stock, and shall thereafter be controlled by the laws of Texas governing such mutual companies. Said trustees shall be appointed and vacancies shall be filled as provided in the plan adopted under Section 1 of this article. Said trustees shall file with the corporation a verified acceptance of their appointments and declaration that they will faithfully discharge their duty as such trustees. All dividends and other sums received on said shares of stock so acquired, after paying the necessary expenses of executing said trust, shall be immediately repaid to said corporation for the benefit of all who are, or may become, policyholders of said corporation, and entitled to participate in the profits thereof, and shall be added to and become a part of the surplus earned by said corporation and be apportionable accordingly, as a part of said surplus among said policyholders.

Sec. 3. Annuity Bonds in Payment of Stock.—The plan provided for in Section 1 of this article may provide that part or all of the purchase price of any part or all of the shares of stock of the corporation acquired by the corporation under the provisions of such plan may be paid by the corporation issuing its annuity bonds to be payable in such annual amounts, and to run for such number of years as may be provided for in said plan, provided that such annuity bonds issued by any such company shall expressly provide, on the face thereof, that they shall be payable only out of the surplus of the company 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, as is provided by Article 11.16 of this code with respect to advances made to mutual life insurance companies; and provided that not more than three-fourths (3/4) of the net earnings of the corporation during any calendar year shall be used or applied to the payment of such annuities.

With the approval of the Chairman of the Board of Insurance Commissioners, the corporation issuing such annuity bonds, or any life insurance company may invest its funds in such annuity bonds, provided that no such company shall have so invested at any one time an amount in excess of ten (10%) per cent of its total admitted assets.

Sec. 4. Distribution of Dividends.—All dividends or earnings accruing to the corporation as the result of the acquisition of any or all of the shares of its stock under the provisions of this article, shall be annually distributed among the policyholders of the corporation under terms and conditions to be approved by the Chairman of the Board of Insurance Commissioners.

Art. 21.28. Liquidation, Rehabilitation, Reorganization or Conservation of Insurers

Sec. 1. Definitions.—For the purposes of this article:

(a) "Insurer" means any person, firm, corporation, association, or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of the Board of Insurance Commissioners.

(b) "Delinquency proceeding" means any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer.

(c) "General assets" means all property, real or personal, not specifically mortgaged, pledged, deposited or otherwise encumbered for the se-

curity or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all in excess of the amount necessary to discharge the sum or sums secured. Assets held in trust and assets held on deposit, for the security or benefit of all policyholders, or all policyholders and creditors, in the United States, shall be deemed general assets.

(d) "Liquidator" means the person designated by the Board of Insurance Commissioners as receiver, liquidator, rehabilitator, or conservator of all insurers as defined herein.

(e) "Board" shall mean the Board of Insurance Commissioners of the State of Texas.

Sec. 2. Conduct of Delinquency Proceedings Against Domiciliary Insurers.—Whenever under the law of this State a court of competent jurisdiction finds that a receiver should take charge of the assets of an insurer domiciled in this State, the liquidator designated by the Board of Insurance Commissioners as hereinafter provided for shall be such receiver. The liquidator so appointed receiver shall forthwith take possession of the assets of such insurer and deal with the same in his own name as receiver or in the name of the insurer as the court may direct.

The said receiver and his successors in office shall be vested by operation of law with the title to all of the property, contracts and rights of action of such insurer, wherever located, as of the date of entry of the order directing possession to be taken. The filing or recording of such an order in any record office of the State shall impart the same notice as would be imparted by a deed, bill of sale or other evidence of title duly filed or recorded by such insurer. The receiver shall be responsible, on his official bond hereinafter provided for, for all assets coming into his possession. The court may require an additional bond, or bonds, from the said receiver, and, if deemed desirable for the protection of the assets, may require a bond, or bonds, of any special deputy liquidator, or other assistant or employee appointed by or under the authority of this article.

Upon taking possession of the assets of a delinquent insurer the receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer, or to take such steps as may be necessary to conserve the assets and protect the rights of policyholders and claimants for the purpose of liquidating, rehabilitating, reinsuring, reorganizing or conserving the affairs of the insurer. An inventory in duplicate of the insurer's assets shall be prepared forthwith by the liquidator, one of which shall be filed in the office of the Board and one in the office of the clerk of the court having jurisdiction, which inventories shall be open to inspection. The liquidator may sell or compound doubtful debts and may sell real or personal property under order of the court, but no such order shall be entered or sale made without notice and hearing. All money collected by the liquidator shall be forthwith deposited in such bank or banks in this State as may be designated by the Board, which banks shall be members of the Federal Deposit Insurance Corporation. The funds collected or realized from the assets of each insurer shall be kept separate and apart from all other funds. Whenever any account in any such bank exceeds the maximum amount insured by said Federal Deposit Insurance Corporation, the Board is hereby authorized and directed to make such contracts and require such security as it may deem proper for the safeguarding of such deposit.

If it shall appear to the court that the interests of creditors will be best served by liquidation of insurer's affairs, the liquidator shall cause weekly notice to be published for three (3) consecutive months in two (2) or more newspapers. The notice shall call upon all persons having

claims against the insurer to present them to the liquidator and make legal proof thereof at a designated place within ninety (90) days after the date of the first insertion of the notice. The liquidator shall mail a similar notice to all persons whose names appear as creditors upon insurer's books.

Under direction of the court, the liquidator may pay one or more dividends after the date fixed for presentation of claims, and may pay a final dividend after one (1) year from the date of the first published notice to creditors. Delayed claims may participate only in future dividends.

The liquidator shall have the discretion to approve or reject any claim filed against the insurer. Objections to any claim not rejected may be made by any party interested, by filing the objections with the liquidator, who shall forthwith present them to the court for determination after notice and hearing. Upon the rejection of each claim, the liquidator shall notify the claimant of such rejection either by registered mail or by written notice personally served. Action upon a claim so rejected must be brought within six (6) months after service.

The Board shall have power to appoint and fix the compensation of the liquidator and of such special deputy liquidators, counsel, clerks, or assistants, as it may deem necessary. The payment of such compensation and all expenses of liquidation shall be made by the liquidator out of funds or assets of the insurer on approval of the Board. An itemized report of such expenses, sworn to by the liquidator and approved by the Board, shall be presented to the court from time to time, which account shall be approved by the court unless objection is filed thereto within ten (10) days after the presentation of the account. The objection, if any, must be made by a party at interest and shall specify the item or items objected to and the ground of such objection. The court shall set the objection down for hearing, notifying the parties of the setting. The burden of proof shall be upon the party objecting to show that the items objected to are improper, unnecessary or excessive.

Unclaimed dividends on approved claims remaining in the liquidator's hands after payment of the final dividend shall be delivered to the Board. If funds or assets remain after the liquidator has paid in full every approved claim filed and has paid all expenses of the liquidation, he shall pay over to the Board an amount equal to the unclaimed liabilities according to insurer's books. Such funds shall be deposited by the Board in trust in a special account to be maintained in the State Treasury.

On receipt of satisfactory written and verified proof of ownership within seven (7) years from the date such funds are so deposited in the State Treasury, the Board shall certify such facts to the Comptroller of Public Accounts, who shall issue proper warrant therefor in favor of the parties respectively entitled thereto drawn on the State Treasurer. Any such money remaining unclaimed with the Board for seven (7) years shall automatically escheat to and become the property of the General Revenue Fund of the State of Texas.

When the liquidator shall have made provision for unclaimed dividends and liabilities, he shall call a meeting of the stockholders of the insurer by giving notice thereof in one (1) or more newspapers in the county where the principal office of the insurer was located, and by written notice to the stockholders of record at their last known address. At such meeting, the stockholders shall appoint an agent or agents to take over the affairs to continue the liquidation for benefit of the stockholders. Voting privileges shall be governed by the insured's by-laws. A majority of the stock shall be represented at the agent's appointment. Such agent or agents shall execute and file with the court such bond or bonds

as shall be approved by it, conditioned on the faithful performance of all the duties of the trust. Under order of the court, the liquidator shall then transfer and deliver to such agent or agents for continued liquidation under the court's supervision all assets of insurer remaining in his hands, whereupon the liquidator and the Board, and each member and employee thereof, shall be discharged from any further liability to such insurer and its creditors and stockholders; provided, however, that nothing herein contained shall be so construed as to permit the insurer to continue in business as such, but the charter of such insurer and all permits and licenses issued thereunder or in connection therewith shall be ipso facto revoked and annulled by such order of the court directing the liquidator to transfer and deliver the remaining assets of such insurer to such agent or agents.

Sec. 3. Ancillary Delinquency Proceedings.—Whenever under the laws of this State, a receiver is to be appointed in delinquency proceedings for an insurer domiciliary in another State, a court of competent jurisdiction in this State shall, on the petition of the Board of Insurance Commissioners of this State, appoint the liquidator herein provided as ancillary receiver in this State of such insurer. The Board shall file such petition (a) if it finds that there are sufficient assets of such insurer located in this State to justify the appointment of an ancillary receiver, or (b) if ten (10) or more persons resident in this State, having claims against such insurer, file a petition or petitions in writing with the Board, requesting the appointment of such ancillary receiver. Such ancillary receiver shall have the right to sue for and reduce to possession the assets of such insurer in this State, and shall have the same powers and be subject to the same duties with respect to such assets, as are possessed by a receiver of a domiciliary insurer under the laws of this State. The remaining provisions of this article shall be applicable to the conduct of such ancillary proceedings.

Sec. 4. Appointment of Liquidator.—The liquidator herein named shall be appointed by a majority of the said Board of Insurance Commissioners, and shall be subject to removal by a majority of said Board, and before entering upon the duties of said office, shall file with the Board of Insurance Commissioners a bond in the sum of Ten Thousand (\$10,000.00) Dollars, payable to the Board of Insurance Commissioners, and conditioned upon the faithful performance of his duties and the proper accounting for all moneys and properties received or administered by him.

Said liquidator shall file reports with the Board of Insurance Commissioners upon its request showing the operation, receipts, expenditures and general condition of any organization of which he may have charge at that time, and, upon request, shall file a copy of said report with the court in which said receivership proceeding is pending. He shall also file a final report of each organization which he has liquidated or handled showing all receipts and expenditures, and giving a full explanation of the same and a true statement of the disposition of all of the assets of each organization.

If, within two (2) years after the receivership shall have been closed by final order of the court, the liquidator shall discover assets not known to him during receivership, he shall report his findings to the court. It shall be within the discretion of the court as to whether the value of the after discovered assets shall justify the reopening of the receivership for continued liquidation.

Sec. 5. Bonds.—All bonds required under the terms of this article shall be upon such forms as may be prescribed by or satisfactory to the

Board, and shall be executed by some solvent corporate company authorized to transact its surety bond business in Texas.

Sec. 6. Conflicts of Laws.—In the event of conflict between the provisions of this article and the provisions of any existing law, the provisions of this article shall prevail, and all laws, or parts of laws, in conflict with the provisions of this article are hereby repealed to the extent of such conflict; provided, however, that to the extent of the conflicts between this article and the provisions of Chapter 14 of this code, the latter shall prevail, and the provisions of this article are hereby declared to be inapplicable to insolvency proceedings instituted under the provisions of said Chapter 14 of this code.

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

Art. 21.29. Must Publish Certificate

Every insurance company doing business in this State, whether life, health, fire, marine or inland, shall publish annually, within thirty days after the issuance thereof, a certificate from the Board that such company has in all respects complied with the laws in relation to insurance.

Art. 21.30. Publication of Notices

Whenever by any provision of this code, any notice or other matter is required to be published, it shall, unless otherwise provided, be published for three successive weeks in two newspapers printed in this State which have a general circulation in this State.

Art. 21.31. Unlawful Dividends

It shall not be lawful for any insurance company organized under the laws of this State to make any dividend, except from surplus profits arising from its business. In estimating such profits, there shall be reserved therefrom the lawful reserve on all unexpired risks and also the amount of all unpaid losses, whether adjusted or unadjusted, and all other debts due and payable, or to become due and payable, by the company. Any dividends made contrary to any provision of this article shall subject the company making them to a forfeiture of its charter; and the Board shall forthwith revoke its certificate of authority. The Board shall give such company at least ten (10) days' notice in writing of its intention to revoke such certificate, stating specifically the reasons why it intends to revoke same.

Art. 21.32. Unlawful Dividend

No life, health, fire, marine, or inland insurance company, organized under the laws of this State, shall make any dividend except from the surplus profits arising from its business. In estimating such profits, there shall be reserved therefrom a sum equal to forty (40%) per cent of the amount received as premiums on unexpired fire risks and policies, and one hundred (100%) per cent of the premiums received on unexpired life, health, marine or inland transportation risks and policies, which amount so reserved is hereby declared to be unearned premiums. There shall also be reserved the amount of all unpaid losses, whether adjusted or unadjusted; all sums due the company on bonds, mortgages, stocks and book accounts, of which no part of the principal or the interest thereon has been paid during the year preceding such estimate of profits, and upon which suit for foreclosures or collections has not been commenced, or which after judgment has been obtained thereon shall have remained more than

two years unsatisfied, and upon which interest shall not have been paid. In case of any such judgment, the interest due or accrued thereon and remaining unpaid shall also be reserved. Any dividend made contrary to the provisions of this article shall subject the company making it to a forfeiture of its charter, and the Board shall forthwith revoke its certificate of authority.

Art. 21.33. Extension of Powers

Corporations may be incorporated under the laws of this State to transact any one or more kinds of insurance business other than life, fire, marine, inland, lightning or tornado insurance business in the same manner, and by complying with the same requirements as prescribed by law for the incorporation of life insurance companies. No such company shall be incorporated having the power to do a fidelity and surety business or a liability insurance business with a paid-up capital stock of less than Two Hundred Thousand (\$200,000.00) Dollars.

Art. 21.34. Association of Companies

In the event that any number of insurance companies, whether life, health, fire, marine or inland, should associate themselves together for the purpose of issuing or vending policies or joint policies of insurance, such association shall not be permitted to do business in this State until the taxes and fees due from each of said companies shall have been paid and all the conditions of the law fully complied with by each company; and any company failing or refusing to pay such taxes and fees, and to fully comply with the requirements of law, shall be refused permission by the Board to do business in this State.

Art. 21.35. Policies and Applications

Except as otherwise provided in this code, every contract or policy of insurance issued or contracted for in this State shall be accompanied by a written, photographic or printed copy of the application for such insurance policy or contract, as well as a copy of all questions asked and answers given thereto. The provisions of Articles 21.16, 21.17, and 21.19 of this code shall not apply to policies of life insurance in which there is a clause making such policy indisputable after two (2) years or less, provided premiums are duly paid; provided further, that no defense based upon misrepresentation made in the application for, or in obtaining or securing, any contract of insurance upon the life of any person being or residing in this State shall be valid or enforceable in any suit brought upon such contract two (2) years or more after the date of its issuance, when premiums due on such contract for the said term of two (2) years have been paid to, and received by, the company issuing such contract, without notice to the assured by the company so issuing such contract of its intention to rescind the same on account of misrepresentation so made, unless it shall be shown on the trial that such misrepresentation was material to the risk and intentionally made.

Art. 21.36. Revocation of Certificate of Authority

Should any insurance company, except those designated in Article 3.61 of this code fail or neglect to pay off and discharge any execution, issued upon a valid final judgment against said company, within thirty (30) days after the notice of the issuance thereof, then in that event the certificate of authority of said company to transact business of insurance shall be revoked, cancelled and annulled, and said company shall be prohibited from transacting business of insurance in this State until said execution be satisfied.

Art. 21.37. Officers, Directors or Trustees, Personal Non-Liability for Tax Payments

No officer, trustee, or director of any insurer shall, in complying with the statutes, be subject to any personal liability by reason of any payment, or determination not to contest payment, deemed by the board of directors or trustees to be in the corporate interest of such insurer, of any license, excise, privilege, premium, occupation, or other fee or tax to any State, territory, or political subdivision thereof, unless prior to such payment the statute, ordinance, or other law imposing such fee or tax shall have been expressly held invalid by the State Court having final appellate jurisdiction in the premises, or by the Supreme Court of the United States; provided, however, that nothing contained herein shall be construed as directly or indirectly limiting, minimizing, or interpreting the rights and powers of insurers and their officers, trustees, and directors heretofore existing.

Art. 21.38. Direct Insurance With Unauthorized Insurers

Sec. 1. Purpose of Article.—The purpose of this article is to regulate the placing of policies or contracts, effecting direct insurance, with certain non-authorized insurers, and to subject certain unauthorized insurers to the jurisdiction of courts of this State in suits by or on behalf of insureds or beneficiaries under insurance contracts. The Legislature declares that it is the subject of concern that the placing of such direct lines of insurance with unauthorized insurers is not properly regulated, and that many residents of this State hold policies of insurance issued by insurers not authorized to do business in this State, thus presenting to such residents the often insurmountable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such State interest, the Legislature herein provides a regulation as to the placing of such direct lines of insurance in such unauthorized companies, and the method of direct service and substituted service of process upon such insurers, and declares that in so doing it exercises its powers to protect its residents, and to define for the purpose of the Statute what constitutes doing business in this State, and also exercises powers and privileges available to the State by virtue of Public Law 15, Seventy-ninth Congress of the United States, Chapter 20, First Session, S. 340, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

Sec. 2. Licensing of Agents; Affidavit of Insured

(a) The Board of Insurance Commissioners upon payment of an annual license fee of Twenty-Five (\$25.00) Dollars may issue to an agent who is regularly commissioned to represent one (1) or more fire, fire and marine, inland, casualty or surety insurance companies, licensed to do business in this State, a certificate of authority to place lines of direct insurance affected hereby to be evidenced by policies of insurance or certificates of insurance in insurers not licensed to do business in this State (hereinafter sometimes referred to as unauthorized insurers). Each such license shall expire on the 31st day of the succeeding December. No diminution of the license fee herein provided shall occur as to any license effective after January 1st of any year. The Board may require written application for such license.

(b) Before receiving the license provided for in the preceding section of this law, the party applying for same shall file with the Board a bond in the sum of Five Thousand (\$5,000.00) Dollars payable to the Governor, for the faithful observance of the provisions of this article. Said bond shall be approved by the Board and be for the benefit of the State of Texas.

(c) When any policy of insurance or certificate of insurance is procured under the authority of such license, there shall be executed by the insured an affidavit setting forth facts showing that such insured was unable, after diligent effort, to procure from any licensed company or companies the full amount of insurance required to protect the property, liability or risk desired to be insured, and further showing that the amount of insurance procured from nonlicensed insurer or insurers is only the excess over the amount so procurable from licensed companies. Each such affidavit shall be filed with the Board along with the report required in subdivision (d) below.

(d) The agent so licensed shall report, under oath, to the Board within thirty (30) days from the first day of January and July of each year the amount of gross premiums received by him for such insurance in nonlicensed insurers, and shall pay to the Board a tax of five (5%) per cent thereon. The term "gross premiums" shall mean the total gross amount of premiums received on each and every such insurance, less returned premiums. In default of the payment of any sum which may be due the State under this law, the Board may sue for the same. The agent so licensed shall keep a separate record of all transactions as herein provided open at all times to the inspection of the Board.

Sec. 3. Acts Not Permitted; Permissible Acts of Agents.—Nothing contained in this article shall authorize any person, firm, association, or corporation to guarantee or otherwise validate or secure the performance or legality of any agreement, instrument or policy of insurance of any insurer not licensed to do business in Texas, nor to permit or authorize any nonlicensed insurer to do any insurance business by or through any person or agent acting within this State; but agents licensed hereunder acting pursuant to this article may issue and deliver to their clients; the insured, binders, policies and other confirmation of direct insurance so lawfully placed, and shall not be personally liable to the holder of any policy of insurance so issued or delivered for any loss covered by same.

Sec. 4. Suits Against Unlicensed Insurers.—A nonlicensed insurer may be sued upon any cause of action arising in this State under any contract issued by it as hereinabove authorized, in a court of competent jurisdiction in any county in which the plaintiff may reside, or in which the cause of action arose. Any such policy or contract shall contain a provision authorizing service of citation or other legal process upon a person or firm whose name and address shall be set out therein, which said person, or at least one (1) of the members of said firm, shall be residents of Texas. Or in lieu thereof any such policy or contract shall contain a provision authorizing service of citation or other legal process upon the Chairman of the Board of Insurance Commissioners, designating the person to whom said Chairman shall mail citation or other legal process. In the event service of legal process against a nonlicensed insurer is made by service upon the Chairman of the Board of Insurance Commissioners, he shall forthwith mail citation or other document or process required to the person designated by the nonlicensed insurer in the policy for the purpose by registered mail with return receipt requested. In the event of service of citation or other legal process upon the Chairman of the Board of Insurance Commissioners of Texas, the nonlicensed company shall have forty (40) days from date of service upon said Chairman within which to plead, answer or otherwise defend the action. Upon service of process upon the Chairman of the Board of Insurance Commissioners in accordance with this law, or upon the person or firm designated in the policy or contract in accordance with this law, the court shall be deemed to have jurisdiction in personam of the non-

licensed insurer. A nonlicensed insurer issuing such insurance policy or contract shall be deemed thereby to have authorized service of process against it in the manner and effect as provided in this article.

Sec. 5. Application of Preceding and Succeeding Sections.—As to any policy or contract issued pursuant to the preceding sections of this article, and as to any claim for loss or damage arising under any such policy or contract, the foregoing sections of this article shall apply, and the succeeding sections of this article shall not apply. As to any such policy or contract issued by an unauthorized insurer in a manner not provided in the preceding sections of this article, the following sections of this article shall apply.

Sec. 6. Service of Process Upon Unauthorized Insurer

(a) As to any policy or contract issued by an unauthorized insurer in a manner not heretofore provided in this article, any of the following acts in this State, effected by mail or otherwise, by an unauthorized foreign or alien insurer, (1) the issuance or delivery of contracts of insurance to residents of this State or to corporations authorized to do business therein, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of business, is equivalent to and shall constitute an appointment by such insurer of the Chairman of the Board of Insurance Commissioners and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this State upon such insurer.

(b) Such service of process shall be made by delivering to and leaving with the Chairman of the Board of Insurance Commissioners, or some person in apparent charge of his office, two copies thereof and the payment to him of such fees as may be prescribed by law. The Chairman of the Board of Insurance Commissioners shall forthwith mail by registered mail one (1) of the copies of such process to the defendant at its last known principal place of business, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within ten (10) days thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(c) Service of process in any such action, suit or proceeding shall in addition to the manner provided in subsection (b) of this section be valid if served upon any person within this State who, in this State on behalf of such insurer, is

- (1) soliciting insurance, or
- (2) making, issuing or delivering any contract of insurance, or
- (3) collecting or receiving any premium, membership fee, assessment or other consideration for insurance; and a copy of such process is sent within ten (10) days thereafter by registered mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt

issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(d) No plaintiff or complainant shall be entitled to a judgment by default under this section until the expiration of thirty (30) days from date of the filing of the affidavit of compliance.

(e) Nothing in this section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

Sec. 7. Defense of Action by Unauthorized Insurer

(a) As to any policy or contract issued by an unauthorized insurer in a manner not provided by Sections 1-3 of this article, and as to any claim arising thereon or thereunder, before any unauthorized foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, such unauthorized insurer shall either (1) deposit with the clerk of the court in which such action, suit or proceeding is pending, cash or securities, or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action; or (2) procure a certificate of authority to transact the business of insurance in this State.

(b) The court in any action, suit, or proceeding, in which service is made in the manner provided in subsections (b) or (c) of Section 6, may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (a) of this section and to defend such action.

(c) Nothing in subsection (a) of this section is to be construed to prevent an unauthorized foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in subsections (b) or (c) of Section 6 hereof on the ground either (1) that such unauthorized insurer has not done any of the acts enumerated in subsection (a) of Section 6, or (2) that the person on whom service was made pursuant to subsection (c) of Section 6 was not doing any of the acts therein enumerated.

Art. 21.39. Calculation and Report of Reserve

Every insurance company which has for ten (10) years or more undertaken to insure persons, firms or corporations against loss or damage on account of the bodily injury or death by accident of any person, for which loss or damage said persons, firms, or corporations are respectively responsible, shall, on or before the first day of October in each year, render to the Board a statement in writing of its business transacted in the United States, which shall show separately for each of the five (5) calendar years constituting the first half of the period of ten (10) years next preceding the thirty-first day of December of the year in which the statement is made:

1. The number of persons reported injured under all its forms of liability policies, whether such injuries were reported to the home office of the company or to any of its representatives, and whether such injury resulted in loss to the company or not.

2. The amount that, on or before the thirty-first day of August of the year in which the statement is made, had been paid on account or in con-

sequence of all injuries so reported, including therein all payments on suits arising from such injuries.

3. The number of suits or actions under such policies on account of injuries reported which have been settled, either by payments or compromise.

4. The amount paid in settlement of such suits or actions on or before the thirty-first day of August of the year when the statement is made, including therein all payments made on account or in consequence of injuries from which the suits arose, whether prior to or later than the date when the suits were brought. Every such company shall, in its financial statements hereafter made in this State, use the experience so ascertained for computing its outstanding losses under all its forms of liability policies, irrespective of the date when the policies were issued. The average cost per suit of settling such cases, as computed by the data required in this article, shall be multiplied by the number of suits or actions pending on account of injuries reported prior to eighteen (18) months previous to the date on which the condition of the company is to be ascertained and shown, which suits or actions are being defended for or on account of a holder of any such policy, also the average cost on account of each injured person, determined as aforesaid from the company's experience, shall be multiplied by the number of injuries reported within the eighteen (18) months prior to making the statement of the company's condition, whether such injuries were reported to the home office of the company or to any of its representatives. From the sum of these two products so ascertained there shall be deducted the amount of all payments made on account or in consequence of said injuries reported within eighteen (18) months, this amount so deducted to be taken as of the date at which the said statement is made. The sum remaining after making this deduction shall be charged as the liability of the company on account of outstanding losses. Any admitted company issuing liability contracts, which, by reason of its limited experience in liability underwriting, cannot furnish the information required by this article shall, nevertheless, until it is able to comply with said requirements, be charged with a liability for outstanding losses upon all kinds of its liability policies an amount not less than the amount resulting from the following process:

The number of suits or actions pending on account of injuries reported prior to eighteen (18) months previous to the date of making up the statement, whether such injuries were reported to the home office of the company or to any of its representatives, which are being defended on account of the holder of any policy, shall be multiplied by the average cost per suit as shown by the average experience of all other admitted liability companies ascertained from the data required by this article, also the number of injuries reported under said policies at any time within eighteen (18) months of making up the statement, whether reported to the home office of the company or to any of its representatives, and whether such injuries resulted in loss to the company or not, shall be multiplied by the average cost for each injured person as shown by the average of said experience of all other admitted liability companies, ascertained from the data required by this article. From the sum of these two (2) products there shall be deducted the amount of all payments made on account of or in consequence of said injuries reported within eighteen (18) months, this amount to be taken as of the date at which the statement is made. A sum not less than the amount remaining after this deduction shall be charged as a liability for outstanding losses to the liability companies covered by the provisions of this paragraph. The average costs for suits and for injured persons required by this paragraph shall, on or before the first day of December of each year, be furnished by the Board

to every such company which has not had an experience of ten (10) years in liability underwriting. Besides the reserve provided for in this article, each such company shall be charged as a liability with all unpaid losses of which the company received notice on or before December 31, and all other debts and liabilities. If the capital stock of any such company, computing its liabilities in accordance with the provisions of this article shall be at any time impaired to the extent of twenty (20%) per cent thereof, the Board shall give notice to the company to make good its whole capital stock within sixty (60) days; and, if this is not done, it shall require the company to cease to do business within this State, and shall thereupon, in case the company is organized under the authority of this State, immediately institute legal proceedings to wind up the affairs of such company.

Art. 21.40. Certificates from Other States

The Board, in calculating the reserve liability of any such company, may accept the certificate of the officer of any other state charged with the duty of supervising such company as to any such company organized under the laws of such state; provided, such certificate shows that such liability has been computed in accordance with the provisions of Article 21.39 of this code.

Art. 21.41. Other Laws for Certain Companies

No provision of this chapter shall apply to companies carrying on the business of life or casualty insurance on the assessment or annual premium plan, under the provisions of this code.

Art. 21.42. Texas Laws Govern Policies

Any contract of insurance payable to any citizen or inhabitant of this State by any insurance company or corporation doing business within this State shall be held to be a contract made and entered into under and by virtue of the laws of this State relating to insurance, and governed thereby, notwithstanding such policy or contract of insurance may provide that the contract was executed and the premiums and policy (in case it becomes a demand) should be payable without this State, or at the home office of the company or corporation issuing the same.

Art. 21.43. Foreign Insurance Corporations

The provisions of this code are conditions upon which foreign insurance corporations shall be permitted to do business within this State, and any such foreign corporation engaged in issuing contracts or policies within this State shall be held to have assented thereto as a condition precedent to its right to engage in such business within this State.

SECTION 2. SUBSTANTIVE LAW PRESERVED.—Nothing contained in this Act shall be held or construed to effect any substantive change in the laws existing prior to the passage of this Act, or to affect or impair any act done, or right vested or accrued; or any proceeding, suit, or prosecution had or commenced in any cause, be it before the courts or the Board of Insurance Commissioners. 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 the laws repealed by this Act had remained in force. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the effective date of this Act shall be discharged or affected by this Act. Prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if prior laws repealed by this Act had not been repealed. It is hereby declared that the Board of Insurance Commissioners, its officers, the term of its officers together with their powers and duties, as they existed prior to the passage of this Act, are expressly continued, and all existing licenses and certificates and other records of such Board are expressly continued to the date on which they would automatically expire by their own terms unless revoked or suspended according to law.

SECTION 3. SEVERABILITY.—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 4. REPEAL OF CONFLICTING LAWS.—In connection with the general purpose of this Bill the following Statutes and Acts, together with all laws or parts of laws in conflict herewith, are hereby repealed: Articles 4680, 4682, Subdivisions 1-20, 4683, 4684, 4685, 4687, 4689, 4691, 4692, 4693, 4694, 4695, 4696, 4697, 4698, 4699, 4700, 4701, 4702, 4703, 4707, 4709, 4710, 4711, 4712, 4713, 4714, 4715, 4716, 4717, 4718, 4719, 4720, 4721, 4722, 4723, 4724, 4727, 4728, 4731, 4732, 4734, 4735, 4737, 4738, 4739, 4741, 4743, 4745, 4746, 4747, 4749, 4750, 4751, 4753, 4754, 4755, 4756, 4757, 4759, 4760, 4761, 4762, 4763, 4764, 4765, 4767, 4768, 4770, 4771, 4772, 4773, 4774, 4775, 4776, 4777, 4778, 4779, 4780, 4801, 4803, 4804, 4805, 4806, 4807, 4810, 4812, 4814, 4815, 4818, 4819, 4823, 4829, 4830, 4832, 4834, 4835, 4836, 4837, 4838, 4839, 4840, 4841, 4842, 4843, 4844, 4845, 4846, 4847, 4848, 4849, 4850, 4851, 4852, 4853, 4854, 4855, 4856, 4857, 4878, 4879, 4880, 4881, 4882, 4883, 4884, 4885, 4886, 4887, 4888, 4889, 4890, 4892, 4893, 4894, 4895, 4896, 4897, 4898, 4899, 4900, 4901, 4903, 4904, 4905, 4908, 4909, 4910, 4911, 4913, 4914, 4915, 4916, 4917, 4918, 4919, 4920, 4921, 4922, 4923, 4924, 4927, 4928, 4931, 4969, 4970, 4971, 4972, 4973, 4974, 4975, 4976, 4977, 4978, 4979, 4980, 4981, 4982, 4983, 4984, 4985, 4986, 4987, 4988, 4989, 4990, 4991, 4992, 4994, 4995, 4996, 4997, 4998, 4999, 5000, 5001, 5002, 5003, 5004, 5005, 5007, 5008, 5009, 5010, 5011, 5012, 5024, 5028, 5030, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5054, 5055, 5056, 5057, 5059, 5060, 5061, 5062, 5063, 5064, 5065, 5066, 5067 and 5068 of Title 78, Revised Civil Statutes of Texas, and all amendments to said Title and Articles, together with certain Acts from Titles 32, 61, 71 and 122, Revised Civil Statutes of Texas:

Acts of 1927, 40th Legislature, Page 329, Chapter 224, Sections 1-5 (Arts. 4679a, 4679b, 4679c, 4679d Sec. 6, 4679d Sec. 6A, 4679d Sec. 6B, 4681, 4682a);

Acts of 1927, 40th Legislature, Page 373, Chapter 253, as amended by Acts of 1937, 45th Legislature, Page 671, Chapter 335, and as amended, Acts of 1949, 51st Legislature, Page 847, Chapter 462, Sec. 1 (Art. 4682b, Sections 1, 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 11-a);

Acts of 1943, 48th Legislature, Page 607, Chapter 352 (Art. 4686, Secs. 1, 2);

Acts of 1947, 50th Legislature, Page 428, Chapter 235 (Art. 4688, Art. 4748);

Acts of 1931, 42nd Legislature, Page 252, Chapter 152, Sections 2, 3, 3-A, and as amended by Acts of 1939, 46th Legislature, Page 385, Chapter 2, Sections 1, 2 (Arts. 4690, 4690a, 4690b, 4690c);

Acts of 1945, 49th Legislature, Page 207, Chapter 160 (Art. 4698a, Sections 1-12);

Acts of 1949, 51st Legislature, Page 998, Chapter 539 (Art. 4698b, Sections 1-4);

Acts of 1927, 40th Legislature, Page 155, Chapter 104, Section 1, as amended by Acts of 1935, 44th Legislature, Page 492, Chapter 205 (Art. 4704 Sections 1-6, Art. 4708);

Acts of 1949, 51st Legislature, Page 1105, Chapter 564 (Art. 4705);

Acts of 1943, 48th Legislature, Page 61, Chapter 54 (Art. 4706);

Acts of 1949, 51st Legislature, Page 815, Chapter 439, Section 1 (Art. 4725);

Acts of 1931, 42nd Legislature, Page 96, Chapter 62, Section 1 (Art. 4726);

Acts of 1943, 48th Legislature, Page 304, Chapter 198, Section 1 (Art. 4729);

Acts of 1947, 50th Legislature, Page 352, Chapter 200, Section 1 (Art. 4730);

Acts of 1941, 47th Legislature, Page 1358, Chapter 620, Section 1 (Art. 4730a);

Acts of 1947, 50th Legislature, Page 330, Chapter 189, Section 1 (Art. 4732, Subdivisions 6, 7 and 8);

Acts of 1945, 49th Legislature, Page 152, Chapter 102, Section 1 (Art. 4732, Subdivision 12);

Acts of 1941, 47th Legislature, Page 519, Chapter 315, Section 1 (Art. 4733, Sections 1, 2 and 3);

Acts of 1931, 42nd Legislature, Page 135, Chapter 91, Section 1 (Art. 4736);

Acts of 1931, 42nd Legislature, Page 328, Chapter 195 (Art. 4736a Sections 1 and 2);

Acts of 1943, 48th Legislature, Page 206, Chapter 125, Section 1 (Art. 4740);

Acts of 1941, 47th Legislature, Page 486, Chapter 304, Section 1 (Art. 4742);

Acts of 1945, 49th Legislature, Page 137, Chapter 93, Section 1 (Art. 4744);

Acts of 1947, 50th Legislature, Page 351, Chapter 199, Section 1 (Art. 4752);

- Acts of 1935, 44th Legislature, Page 713, Chapter 307 (Art. 4758);
- Acts of 1931, 42nd Legislature, Page 172, Chapter 101, Section 6 (Art. 4764a, Section 6);
- Acts of 1947, 50th Legislature, Page 366, Chapter 208, Section 1 (Art. 4764a, Sections 1, 2, 3 and 4);
- Acts of 1947, 50th Legislature, Page 423, Chapter 235, Section 3 (Art. 4764a, Section 5);
- Acts of 1941, 47th Legislature, Page 111, Chapter 89 (Art. 4764b, Sections 1, 2, 3, 4, 6, 7, 7a, 8 and 9);
- Acts of 1943, 48th Legislature, Page 603, Chapter 348 (Art. 4764b, Section 5);
- Acts of 1947, 50th Legislature, Page 330, Chapter 189 (Art. 4764b, Section 2, Subsection e);
- Acts of 1949, 51st Legislature, Page 132, Chapter 81 (Art. 4764c, Sections 1-16);
- Acts of 1949, 51st Legislature, Page 813, Chapter 438, Section 1 (Art. 4766);
- Acts of 1939, 46th Legislature, Page 384, Chapter 1 (Art. 3920);
- Acts of 1947, 50th Legislature, Page 532, Chapter 312 (Art. 4800);
- Acts of 1943, 48th Legislature, Page 580, Chapter 341, Sections 1, 3, 4, and 6 (Arts. 4802, 4809, 4811, 4816);
- Acts of 1947, 50th Legislature, Page 498, Chapter 293, Sections 1, 2 (Arts. 4808, 4817);
- Acts of 1929, 41st Legislature, Second Called Session, Page 28, Chapter 16, Sections 1, 2, 3 and 4 (Arts. 4825, 4826, 4827 and 4828);
- Acts of 1931, 42nd Legislature, Page 71, Chapter 48, Sections 1 through 6 (Arts. 4820, 4821, 4822, 4824, 4831, 4831a);
- Acts of 1933, 43rd Legislature, Page 853, Chapter 243, Sections 1, 2 (Art. 4838a);
- Acts of 1936, 44th Legislature Third Called Session, Page 2040, Chapter 495, Article IV, Section 5d (Art. 4858);
- Acts of 1937, 45th Legislature, Page 16, Chapter 14, Section 1 (Art. 4858a);
- Acts of 1929, 41st Legislature, First Called Session, Page 189, Chapter 75, Sections 1 through 10 (Art. 4859e);
- Acts of 1933, 43rd Legislature, Page 856, Chapter 245, as amended, Acts of 1935, 44th Legislature, Page 651, Chapter 264, Section 1-2a, as amended, Acts of 1941, 47th Legislature, Page 860, Chapter 535, Section 1 (Art. 4859f, Sections 1 through 6, inclusive, 6a, 6b, 7 through 20, inclusive);
- Acts of 1929, 41st Legislature, First Called Session, Page 90, Chapter 40, as amended, Acts of 1929, 41st Legislature, Second Called Session, Page 99, Chapter 60, Section 1; Acts of 1947, 50th Legislature, Page 430, Chapter 236, Sections 1, 1a (Arts. 4860a-1 through 4860a-6, inclusive; 4860a-6a; 4860a-7 through 4860a-18, inclusive; 4860a-18a; 4860a-19);
- Acts of 1937, 45th Legislature, Page 184, Chapter 99, as amended, Acts of 1949, 51st Legislature, Page 826, Chapter 446, Section 1 (Art. 4860a-20, Sections 1 through 26, inclusive);

Acts of 1947, 50th Legislature, Page 739, Chapter 367, Section 1 (Art. 4860a—20, Sections 1a, 2a);

Acts of 1931, 42nd Legislature, Page 200, Chapter 118 (Art. 4871a, Sections 1—4, inclusive);

Acts of 1929, 41st Legislature, Page 563, Chapter 274, and as amended by Acts of 1931, 42nd Legislature, Page 334, Chapter 201; Acts of 1933, 43rd Legislature, Page 577, Chapter 190, and Acts of 1935, 44th Legislature, Page 550, Chapter 235 (Arts. 4875a—1 through 4875a—31, inclusive, Vernon's R.C.S.);

Acts of 1937, 45th Legislature, Page 29, Chapter 24, as amended by Acts of 1945, 49th Legislature, Page 214, Chapter 161, Section 3 (Art. 4902); Acts of 1935, 44th Legislature, Page 192, Chapter 77, Section 1 (Art. 4891);

Acts of 1945, 49th Legislature, Page 214, Chapter 161, Sections 1, 2 and 4 (Art. 4905A, Art. 4905B and Art. 4905C);

Acts of 1931, 42nd Legislature, Page 290, Chapter 171, Section 1 (Art. 4907);

Acts of 1943, 48th Legislature, Page 614, Chapter 355, Section 1 (Art. 4912);

Acts of 1937, 45th Legislature, Page 30, Chapter 25, Section 1 (Art. 4918a);

Acts of 1941, 47th Legislature, Page 796, Chapter 494 (Art. 4918b);

Acts of 1937, 45th Legislature, Page 1255, Chapter 472, Sections 1 and 2 (Arts. 4925, 4926);

Acts of 1949, 51st Legislature, Page 835, Chapter 453, Sections 1 and 2 (Arts. 4929, 4929a);

Acts of 1927, 40th Legislature, Page 48, Chapter 33, Section 1 (Art. 4930);

Acts of 1949, 51st Legislature, Page 1360, Chapter 618, Section 1 (Art. 4932);

Acts of 1939, 46th Legislature, Page 394, Chapter 4, Section 1 (Art. 4993);

Acts of 1943, 48th Legislature, Page 436, Chapter 295, and as amended, Acts of 1949, 51st Legislature, Page 1067, Chapter 551 (Art. 5012a);

Acts of 1929, 41st Legislature, Page 77, Chapter 40, and as amended, Acts of 1931, 42nd Legislature, Page 449, Chapter 269 (Art. 1302a, Section 23);

Acts of 1933, 43rd Legislature, Page 750, Chapter 222 (Art. 1302a, Section 2), and Acts of 1945, 49th Legislature, Page 383, Chapter 245 (Art. 1302a, Section 24a);

Acts of 1929, 41st Legislature, First Called Session, Page 32, Chapter 11, Section 1 (Arts. 5013, 5014, 5015, 5016, 5017a, 5017b, 5017c, 5017e, 5018, 5018a, 5018b, 5019, 5019a, 5020, 5021, 5022, 5022a, 5022b, 5022c, 5022d, 5023, 5023a);

Acts of 1943, 48th Legislature, Page 605, Chapter 350, Section 1 (Art. 5017);

Acts of 1943, 48th Legislature, Page 606, Chapter 351, Section 1 (Art. 5017d);

Acts of 1939, 46th Legislature, Page 417, Chapter 8 (Arts. 5025, 5026, 5027, 5029, 5029a, 5031, 5032, 5033, 5033a);

Acts of 1939, 46th Legislature, Page 123, Chapter 1, as amended, Acts of 1943, 48th Legislature, Page 371, Chapter 249 (Art. 4590a, Sections 1, 1-a, 2 to 15, inclusive);

Acts of 1929, 41st Legislature, First Called Session, Page 5, Chapter 3, Section 1 (Art. 5053);

Acts of 1947, 50th Legislature, Page 956, Chapter 410 (Art. 5053a);

Acts of 1927, 40th Legislature, Page 269, Chapter 190 (Senate Bill 12), Section 1, as amended, Acts of 1939, 46th Legislature, Page 425, Chapter 10, Section 1 (Art. 5057a);

Acts of 1935, 44th Legislature, Page 227, Chapter 91, Section 1 (Art. 5058);

Acts of 1931, 42nd Legislature, Page 150, Chapter 96, as amended, Acts of 1935, 44th Legislature, Page 204, Chapter 83, Sections 1-3 (Art. 5062a);

Acts of 1941, 47th Legislature, Page 374, Chapter 212 (Art. 5062b, Sections 1-27);

Acts of 1927, 40th Legislature, Page 348, Chapter 234 (Art. 5068a, Sections 1-2);

Acts of 1933, 43rd Legislature, Page 356, Chapter 138, Sections 1-5, as amended, Acts of 1935, 44th Legislature, Page 679, Chapter 289, Sections 1, 2, 3, 4, 5, 7 and 7a, as amended, Acts of 1949, 51st Legislature, Page 384, Chapter 204 (Art. 5068b, Sections 1-5, 7 and 7a);

Acts of 1939, 46th Legislature, Page 389, Chapter 3 (Art. 5068c, Sections 1-6);

Acts of 1945, 49th Legislature, Page 51, Chapter 34, Section 1 (Art. 5068d);

Acts of 1949, 51st Legislature, Page 1355, Chapter 617, Sections 1-8 (Art. 5068e, Sections 1-8);

Acts of 1939, 46th Legislature, Page 401, Chapter 6, Sections 1 to 35, inclusive, as amended by Acts of 1941, 47th Legislature, Page 871, Chapter 542, Section 1 (Art. 5068—1 Vernon's);

Acts of 1941, 47th Legislature, Page 694, Chapter 433, Section 1 (Art. 5068—2 Vernon's);

Acts of 1943, 48th Legislature, Page 608, Chapter 353 (Art. 5068—3 Vernon's);

Acts of 1943, 48th Legislature, Page 696, Chapter 386, Section 1 (Art. 5068—4 Vernon's);

Acts of 1945, 49th Legislature, Page 229, Chapter 172, Section 1 (Art. 5068—2a Vernon's);

Acts of 1945, 49th Legislature, Page 191, Chapter 146 (Art. 5068—5 Vernon's);

Acts of 1947, 50th Legislature, Page 349, Chapter 197 (Art. 5068—6 Vernon's);

Acts of 1947, 50th Legislature, Page 734, Chapter 365 (Art. 5068—7, Sections 1 to 5, inclusive, Vernon's).

SECTION 5. EMERGENCY.—The fact that the present laws relating to insurance are in many respects inadequate, containing in many instances overlapping, ambiguous and inconsistent provisions and seriously interfering with the operation of the insurers as well as jeopardizing

the insureds and protection of the public; and the further fact that jurisdictional uncertainties arising from the United States Supreme Courts' decision holding that the business of insurance transacted across state lines is interstate commerce within the meaning of the Federal Constitution, making it practicable and necessary that such laws shall be made clear, concise, adequate and consistent for the protection of the insuring public as well as for the protection of those engaged in the insurance business, creates an emergency and an imperative public necessity, demanding that the Constitutional Rule requiring all bills to be read on three several days in each House be suspended, and also the Constitutional Rule which provides that laws shall not become effective until the expiration of ninety (90) days after the adjournment of the session, be suspended, and such rules are hereby suspended, and this Act shall take effect and be in full force from and after the date of its passage and it is so enacted.

Passed the Senate, April 10, 1951, by a viva voce vote; June 7, 1951, H.C.R.No.179, was adopted, correcting S.B.No.236; passed the House, May 23, 1951: Yeas 103, Nays 9; June 7, 1951, H.C.R.No.179 was adopted, correcting S.B.No.236.

Approved June 28, 1951.

Effective 90 days after June 8, 1951, date of adjournment.

FORMER ARTICLES VERNON'S ANN. CIV. ST.

Arts. 4679-4768 Repealed. Acts 1951, 52nd Leg., p. 868, ch. 491, § 4, eff. Sept. 7, 1951.

Article 4708 was also amended by Acts 1951, 52nd Leg., p. 166, ch. 104, § 1. Pursuant to House Concurrent Resolution No. 179, 52nd Leg., the provisions of H.B. No. 394, this amendment, were included in the enrolled bill of the Insurance Code of 1951. See art. 2.11 of the Insurance Code of 1951.

As amended in 1951, art. 4708 provided:

"The affairs of any insurance companies organized under the laws of this State shall be managed by not fewer than seven (7) directors, all of whom shall be stockholders in the company. Within thirty (30) days after the subscription books of the company have been filed, a majority of the stockholders shall hold a meeting for the election of directors, each share entitling the holder thereof to one (1) vote. The directors then in office shall continue in office until their successors have been duly chosen and have accepted the trust. The annual meeting for the election of directors of any such company shall be held not later than February 28th, as the bylaws of the company may direct."

Paragraph 3 of article 4725 was also amended by Acts 1951, 52nd Leg., p. 546, ch. 322, § 1. Pursuant to House Concurrent Resolution No. 179, 52nd Leg., the provisions of S.B. No. 296, this amendment, were included in the enrolled bill of the Insurance Code of 1951. See paragraph 4 of art. 3.39 of the Insurance Code of 1951, Special Pamphlet.

As amended in 1951, paragraph 3 of art. 4725 provided:

"3. It may invest its capital, surplus, and contingency funds over and above the amount of its policy reserves in the capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment, or in the bonds or notes of any educational or religious corporation where provision has been made for the payment of a suffi-

cient amount of the first weekly or monthly revenues thereof to an interest and sinking fund account in a bank or trust company as an independent paying agent; and it may loan its capital, surplus, and contingency funds, or any part thereof, over and above the amount of its policy reserves, taking as security therefor any of the above mentioned capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any such corporation, the current market value of which such stock, 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 it shall not invest in nor take as collateral security for any loan its own capital stock nor more than ten (10%) per cent of the amount of its capital, surplus, and contingency funds in the stock of any one corporation, nor in the stock of any manufacturing corporation with a capital stock of less than Twenty-five Thousand (\$25,000.00) Dollars, nor in the stock of any oil corporation with a capital stock of less than Five Hundred Thousand (\$500,000.00) Dollars; and provided further, that it shall not invest any of its funds nor take as collateral security any stock on account of which the holder or owner thereof may in any event be or become liable to any assessment except for taxes.

"In any case in which a life insurance company organized under the laws of this State shall re-insure 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 investments upon such notice as it may deem reasonable."

Prior to repeal, article was also amended by Acts 1943, 48th Leg., p. 192, ch. 111, § 1; Acts 1945, 49th Leg., p. 267, ch. 196, § 1; Acts 1947, 50th Leg., p. 425, ch. 232, § 1; Acts 1949, 51st Leg., p. 815, ch. 439, § 1.

Section 7 of art. 4764c was also amended by Acts 1951, 52nd Leg., p. 336, ch. 207, § 1. Pursuant to House Concurrent Resolution No. 179, 52nd Leg., the provisions of S.B. No. 221, this amendment, were included in the enrolled bill of the Insurance Code of 1951. See section 7 of art. 3.53 of the Insurance Code of 1951.

As amended in 1951, section 7 of art. 4764c provided:

"Section 7. No policy of credit insurance shall hereafter be solicited, written or delivered in this state, except on substantial compliance with the following requirements:

"A. The insurer shall receive from the borrower a written application for such insurance, signed by him, in such form as may be approved by the Board. The form of each such application shall be filed with and approved by the Board at such time as the Board shall direct.

"B. Credit life insurance policies shall insure against the contingency of death from any cause whatsoever and shall be incontestable from date of issue; except that with approval of the Board, the policy may provide for reduced benefits in the event of suicide by the insured. The terms of such life insurance policies shall not extend more than one month beyond the term of the loan, or one year, whichever is greater.

"C. Credit health and accident policies shall insure against the contingency of disability from sickness or accident of every kind and character whatsoever, originating and occurring within the term of the policy; except that with approval of the Board, the policy may provide for reduced benefits in the event of pregnancy or self-inflicted injury. The terms of such health and accident policies shall not extend more than one month beyond the term of the loan. The policy of health and accident insurance may provide an amount of insurance in such proportion to the unpaid balance of the loan as shall be approved by the Board.

"D. The policies of health and accident and of life insurance shall be non-cancellable by the insurer during the term. Life insurance policies shall be non-cancellable by the insured and the premium shall be considered fully earned when paid. Health and accident insurance policies may be cancelled by the insured upon payment of the loan, and the unearned portion of the premium, calculated on such basis as the Board shall approve, shall be refunded to the insured.

"E. The forms of credit insurance policies shall be filed with and approved by the Board before such policies may be issued or delivered. The premium rates to be charged for credit insurance shall be filed and approved by the Board."

Derived from Acts 1949, 51st Leg., p. 132, ch. 81.

Art. 4769. Tax on insurance organizations not organized under laws of Texas

Every group of individuals, society, association or corporation (all of which shall be deemed included in the term "insurance organization" wherever used in this Act) not organized under the laws of this State and transacting the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, or for mutual benefit, or protection in this State shall on or before the first day of March of each year file its annual statement showing the gross amount of premiums collected during the year ending December 31st, preceding, from persons residing or domiciled in this State on policies of insurance, and showing in separate columns the first-year premiums and the renewal premiums collected on such Texas policies, and each such insurance organization, except local mutual aid associations, fraternal benefit societies, and fraternal insurance associations or societies that limit their membership to one (1) occupation, shall pay an annual tax of 3.3% of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas on policies of insurance. Each such insurance organization shall also report to the Board of Insurance Commissioners on or before the first day of March of each year the amount that it had invested on the 31st of December, preceding, in Texas securities as defined by Article 4766 of the Revised Civil Statutes of Texas, 1925, as amended, and the amount that it had invested on said date in similar securities in the State in which it had its highest percentage of admitted assets invested, and in computing the

amount of such investments it shall include as a part thereof that percentage of its investments in bonds of the United States of America that its reserves on policies of insurance issued on the lives of persons residing or domiciled in Texas are of its total reserves on all policies outstanding, but in no event shall it include any amount of such bonds in excess of the amount thereof reported by said Company as Texas Securities in its Texas tax return covering the year 1946. If the report of such insurance organization as of December 31st, preceding, shows that such organization, had invested in such Texas securities an amount which is more than seventy-five per cent (75%) and not more than eighty per cent (80%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 3.025% of such gross premium receipts; if the report shows that such insurance organization had invested in such Texas securities on such date an amount which is more than eighty per cent (80%) and not more than eighty-five per cent (85%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 2.75% of such gross premium receipts; if the report shows that such insurance organization had invested in such Texas securities on such date an amount which is more than eighty-five per cent (85%) and not more than ninety per cent (90%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 2.2% of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of ninety per cent (90%) of the amount that it had invested in similar securities in the State in such it then had the highest percentage of its admitted assets invested, its tax shall be 1.925% of such gross premium receipts; provided, however, that all such insurance companies whose gross premium receipts are less than Four Hundred and Fifty Thousand Dollars (\$450,000) for the preceding year ending December 31st, wherever and irrespective of from whom collected, according to its annual statement which shall disclose such information, shall pay a tax of $\frac{55}{80}$ of 1% of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas except as to first-year premiums as provided herein; provided, however, that the gross premium taxes herein imposed shall not be applicable to first-year premiums; and provided further that where any policy is written on a term plan only the premium collected during the first year shall be deducted on such policy or any renewal, extension or substitution thereof by the company issuing such term policy, and provided further that the amount of examination and valuation fees paid in such taxable year to or for the use of the State of Texas by any insurance organization hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance organization for such taxable year. Such gross premium receipts so reported shall not include premiums received from other licensed companies for reinsurance of business in Texas and there shall be no deduction for premiums paid for reinsurance. If any such insurance organization does more than one (1) kind of insurance business, then it shall pay the tax herein levied upon the gross premiums on each kind of insurance written. The report of the gross premium receipts and the invested assets shall be made upon the sworn statement of two (2) principal officers.

Upon receipt by it of the sworn statement above provided, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by such insurance organizations which shall be paid

to the State Treasurer on or before the fifteenth day of March, following, and the State Treasurer shall issue his receipt therefor as evidence of the payment of such tax. Such taxes shall be for and on account of business transacted within this State during the calendar year ending December 31st, in which such premiums were collected, or for that portion of the year during which the insurance organization transacted business in this State. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this State from any such insurance organization, not organized under the laws of this State, except, and only except unemployment compensation taxes levied under Senate Bill No. 5, passed at the Third Called Session of the Forty-fourth Legislature and amendments thereto¹; and the fees provided for under Article 3920 of the Revised Civil Statutes of Texas, 1925, and amendments thereto; and in the case of companies operating under Article 4742 of the Revised Civil Statutes of Texas, 1925, the deposit fees prescribed by that Article and amendments thereto; and in case of companies writing workman's compensation insurance, the taxes otherwise provided by law on account of such business; and no other taxes shall be levied or collected by the State or any county, city, or town, except State, county and municipal ad valorem taxes upon real or personal properties of such insurance organizations. Acts 1949, 51st Leg., p. 1362, ch. 619, § 1, as amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXI (§ 1).

¹ Article 5221b—1 et seq.

The provisions of Articles 4769, 7064, 7064a, as amended by Acts 1951, 52nd Leg., p. 695, ch. 402, are not repealed by implication by provisions in Insurance Code of 1951, arts. 4.01, 4.06 relating to occupation taxes on domestic insurance companies. Op. Atty. Gen. No. V-1199, June 28, 1951.

Emergency. Effective Sept. 1, 1951.

Sections 2-5 of Acts 1949, 51st Leg., p. 1362, ch. 619, read as follows:

"Sec. 2. This Act shall apply to the premiums collected after June 30, 1949 and subsequent years and shall not affect the obligation of any such insurance organization for the payment of any taxes that have accrued on premium receipts for insurance issued prior to July 1, 1949, but the obligation as now provided by law for the payment of such taxes shall continue in full force and effect. No such insurance organization shall receive a permit to do business in Texas until all premium taxes due by it to the State of Texas are paid.

"Sec. 3. This Act shall not in any manner affect the obligation of any such insurance organization to make investments in Texas securities in proportion to the amount of Texas reserves as required by Article 4765 of the Revised Civil Statutes of Texas, 1925, as amended.

"Sec. 4. House Bill No. 23, known as Chapter 279, Page 442, Acts of the Regular Session of the Forty-ninth Legisla-

ture (known as Article 4769a, Vernon's Annotated Civil Statutes) is hereby repealed in so far as it applies to any group of individuals, society, association, or corporation not organized under the laws of this State except for the continuing obligation of any such insurance organization for the payment of any and all taxes that have accrued under the provisions of said House Bill No. 23, known as Chapter 279, Page 442, Acts of the Regular Session of the Forty-ninth Legislature. This Act shall be cumulative of all other laws and shall repeal any other law only in so far as such other law shall levy any tax on any of the insurance organizations affected by this Act, or otherwise conflict with this Act, except as provided for herein.

"Sec. 5. If any Section, paragraph, sentence or clause of this Act shall be held invalid, unconstitutional, or inoperative, this shall not affect the validity of the remaining portions of this Act, but the remainder of the Act shall be given effect as if such invalid, unconstitutional, or inoperative portion had not been included."

Former Art. 4769 as amended by Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVIII, § 3, requiring foreign life insurance companies to make annual reports of gross receipts, was repealed by Acts 1945, 49th Leg., p. 442, ch. 279, § 4.

Art. 4769 $\frac{1}{2}$. Additional tax on insurance organizations not organized under laws of Texas

In addition to all other taxes, there is hereby levied an additional tax for the years 1950 and 1951, upon every group of individuals, society, association, or corporation upon which a tax is levied by Chapter 619, Acts, Regular Session, Fifty-first Legislature.¹

The tax shall be paid at the same time, in the same manner, and subject to all the same terms, conditions, obligations and penalties as is provided for the payment and collection of the tax levied in the aforesaid Chapter 619, Acts, Regular Session, Fifty-first Legislature.

The tax hereby levied for the year 1950, shall be ten per cent (10%) of three-fourths ($\frac{3}{4}$) of the amount of tax levied and due for the calendar year 1950 under the aforesaid Chapter 619, Acts, Regular Session, Fifty-first Legislature. The tax hereby levied for 1951 shall be two-thirds ($\frac{2}{3}$) of ten per cent (10%) of the amount of tax levied and due for the calendar year 1951 under the aforesaid Chapter 619, Acts, Regular Session, Fifty-first Legislature. Added Acts 1950, 51st Leg., 1st C.S., p. 10, ch. 2, Art. XVII, § 3.

¹ Arts. 4769, 4769a note. Emergency. Effective Feb. 28, 1950.

Repeal

This article is repealed in so far as it levies a tax on premium receipts for the year 1951 by Acts 1951, 52nd Leg., p. 695, ch. 402, § XXI (§ 2.)

Art. 4769a. Report of premiums; annual tax; report of investments; payment of tax; exclusiveness

Section 1. Every group of individuals, society, association, or corporation (all of which shall be deemed included in the term "insurance organization" wherever used in this Act) transacting the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, or for mutual benefit, or protection in this State shall on or before the first day of March of each year file its annual statement showing the gross amount of premiums collected during the year ending December 31, preceding, from persons residing or domiciled in this State on policies of insurance, and showing in separate columns the first year premiums and the renewal premiums collected on such Texas policies, and each such insurance organization, except local mutual aid associations, fraternal benefit societies, and fraternal insurance associations or societies that limit their membership to one occupation, shall pay an annual tax of three and five-tenths per cent (3.5%) of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas on policies of insurance. Each such insurance organization shall also report to the Board of Insurance Commissioners on or before the first day of March of each year the amount that it had invested on the 31st of December, preceding, in Texas securities as defined by Article 4766 of the Revised Civil Statutes of Texas, 1925, as amended, and the amount that it had invested on said date in similar securities in the state in which it had its highest percentage of admitted assets invested, and in computing the amount of such investments in such other state it shall include as a part thereof that percentage of its investment in bonds of the United States of America purchased between December 8, 1941, and the termination of the war in which the United States is now engaged that its reserves on policies of insurance issued on the lives of persons residing or domiciled in such state are of its total reserves on all policies outstanding. If the report of such insurance organization as of December 31, preceding, shows that

such organization had invested in Texas securities as defined by Article 4766 of the Revised Civil Statutes of Texas, 1925, as amended, an amount which is not less than seventy-five per cent (75%) nor more than eighty per cent (80%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be three per cent (3%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty per cent (80%) and not more than eighty-five per cent (85%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be two and seventy-five one-hundredths per cent (2.75%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-five per cent (85%) and not more than eighty-eight per cent (88%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be two and twenty-five one-hundredths per cent (2.25%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-eight per cent (88%) and not more than ninety per cent (90%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be one and seventy-five one-hundredths per cent (1.75%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of ninety per cent (90%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be ninety-five one hundredths of one per cent (.95 of 1%) of such gross premium receipts; provided, however, that all such insurance companies whose gross premium receipts are less than Four Hundred Fifty Thousand Dollars (\$450,000) for the preceding year ending December 31st, wherever and irrespective of from whom collected, according to its annual statement which shall disclose such information, shall pay a tax of five-eighths of one per cent ($\frac{5}{8}$ of 1%) of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas except as to first year premiums as provided herein; provided, however, that the gross premium taxes herein imposed shall not be applicable to first year premiums; and provided further that where any policy is written on a term plan only the premium collected during the first year shall be deducted on such policy or any renewal, extension or substitution thereof by the company issuing such term policy. Such gross premium receipts so reported shall not include premiums received from other licensed companies for reinsurance of business in Texas and there shall be no deduction for premiums paid for reinsurance. If any such insurance organization does more than one kind of insurance business, then it shall pay the tax herein levied upon the gross premiums on each kind of insurance written. The report of the gross premium receipts and the invested assets shall be made upon the sworn statement of two (2) principal officers.

Upon receipt by it of the sworn statement above provided, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by such insurance organization which shall be paid to the State Treasurer on or before the fifteenth day of March, following, and the State Treasurer shall issue his receipt therefor as evidence of

the payment of such tax. Such taxes shall be for and on account of business transacted within this State during the calendar year ending December 31, in which such premiums were collected, or for that portion of the year during which the insurance organization transacted business in this State. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this State from any such insurance organization, foreign or domestic, except, and only except unemployment compensation taxes levied under Senate Bill No. 5, passed at the Third Called Session of the Forty-fourth Legislature and amendments thereto; and the fees provided for under Article 3920 of the Revised Civil Statutes of Texas, 1925, and amendments thereto; and in the case of companies operating under Article 4742 of the Revised Civil Statutes of Texas, 1925, the deposit fees prescribed by that Article and amendments thereto; and in case of companies writing workmen's compensation insurance, the taxes otherwise provided by law on account of such business; and no other taxes shall be levied or collected by the State or any county, city, or town except State, county, and municipal ad valorem taxes upon real or personal properties of such insurance organization.

Sec. 2. This Act shall apply to the premiums collected during 1945 and subsequent years and shall not affect the obligation of any such insurance organization for the payment of any taxes that have accrued on premium receipts for insurance issued during 1944 or in prior years, but the obligation as now provided by law for the payment of such taxes shall continue in full force and effect. No such insurance organization shall receive a permit to do business in Texas until all premium taxes due by it to the State of Texas are paid.

Sec. 3. This Act shall not in any manner affect the obligation of any such insurance organization to make investments in Texas securities in proportion to the amount of Texas reserves as required by Article 4765 of the Revised Civil Statutes of Texas, 1925, as amended.

Sec. 4. Article 7064a and Article 4769 of the Revised Civil Statutes of Texas, 1925, as amended, are repealed except for the continuing obligation of any such insurance organization for the payment of any taxes that have accrued under the provisions of either of said Articles. This Act shall be cumulative of all other laws but shall repeal Article 4758, Revised Civil Statutes of 1925, as amended; and shall repeal all other laws only in so far as they levy any tax on any of the organizations affected by this Act or otherwise conflict with this Act, except as provided herein.

Sec. 5. If any section, paragraph, sentence or clause of this Act shall be held invalid, unconstitutional, or inoperative, this shall not affect the validity of the remaining portions of this Act, but the remainder of the Act shall be given effect as if such invalid, unconstitutional, or inoperative portion had not been included. Acts 1945, 49th Leg., p. 442, ch. 279.

Effective 90 days after June 5, 1945, date of adjournment.

Repeal

Repealed by Acts 1949, 51st Leg., p. 1365, ch. 619, § 4, and Acts 1949, 51st Leg., p. 1365, ch. 620, § 4 "in so far as it applies to any group of individuals, society, association, or other corporation organized under the laws of this State except for the continuing obligation of any such insurance organization for the payment of any and all taxes that have accrued under the provisions and said House Bill No. 23, known as Chapter 279, Page 442, Acts of the Regular Session of the Forty-ninth Legislature. This Act shall be cumulative"

tive of all other laws and shall repeal any other law only in so far as said law shall levy any tax on any of the insurance organizations affected by this Act, or otherwise conflict with this Act, except as provided for herein."

Arts. 4770 to 5068—7. Repealed Acts 1951, 52nd Leg., p. 868, ch. 491, § 4, eff. Sept. 7, 1951

Article 4810 was also amended by Acts 1951, 52nd Leg., p. 160, ch. 98, § 1. Pursuant to House Concurrent Resolution No. 179, 52nd Leg., the provisions of H.B.No. 38, this amendment, were included in the enrolled bill of the Insurance Code of 1951. See art. 11.11 of the Insurance Code of 1951.

Article 4810 as amended in 1951 provided:

"1. Any Mutual, Level Premium, Legal Reserve Life Insurance Company organized and doing business under the provisions of this Chapter may accumulate and maintain a Contingency Reserve, over and above all of its reserves and liabilities required or specifically permitted by the provisions of this Chapter, in an amount not exceeding Ten Thousand Dollars (\$10,000), or an amount equal to the sum of ten per cent (10%) of all of its policy reserves and policy liabilities, plus one per cent (1%) of the amount of its life insurance then in force, if such sum be greater than Ten Thousand Dollars (\$10,000), but in no event to exceed Seven Hundred and Fifty Thousand Dollars (\$750,000), or ten per cent (10%) of all of its policy reserves and policy liabilities, whichever shall be greater. The term 'policy reserves and policy liabilities' as used in this Section of this Act shall include only its reserves on outstanding Life Insurance Policies and Annuity Contracts, contracts issued as supplemental thereto or in connection therewith or provisions included therein insuring against disability or against death by accident or accidental means, and including liabilities required under optional modes of settlement, and for dividends left on deposit at interest, after deducting the net value of its risks reinsured by other solvent assuming insurers, but this shall not affect any existing Contingency Reserves held by any such Company on the effective date of this Act, save that whenever and as long as such existing Contingency Reserve shall exceed the limit above mentioned, it shall not be entitled to maintain any additional Contingency Reserve.

"2. The Board of Insurance Commissioners may, for good cause shown by an official order, permit any such Company to accumulate and maintain a Contingency Reserve in excess of the maximum amount

hereinbefore prescribed, for a period, not exceeding one (1) year under any one order, which shall be specified in such order. The Board of Insurance Commissioners shall state in such order its reasons therefor.

"3. All such Contingency Reserves as provided for by this Act shall be invested according to law under the supervision of the Board of Insurance Commissioners and shall be used exclusively for the payment of death claims and dividends to policyholders. All interests and earnings from such investments in excess of the maximum Contingency Reserves as provided for in this Act shall be paid in dividends to policyholders according to present laws."

Article 5068—1 was also amended by Acts 1951, 52nd Leg., p. 246, ch. 144, § 1 by adding a new paragraph on reinsurance. Pursuant to House Concurrent Resolution No. 179, 52nd Leg., the provisions of S.B.No. 8, this amendment, were included in the enrolled bill of the Insurance Code of 1951. See art. 14.62 of the Insurance Code of 1951.

The paragraph on reinsurance added to art. 5068—1 in 1951 provided:

"Companies and associations operating under the provisions of this Act may enter into reinsurance contracts or agreements with legal reserve companies authorized to write life, health, and accident insurance in this State with capital or surplus of at least One Hundred Thousand (\$100,000.00) Dollars, and pay the premiums for such reinsurance out of the mortuary or claim funds. Provided, that such reinsurance contracts or agreements shall be subject to the approval of the Board of Insurance Commissioners of Texas, and that no company or association shall pay more out of its mortuary or claim fund for such reinsurance than is currently received by the mortuary or claim fund on the policies or members reinsured. Within thirty (30) days from the effective date of this Act, the Board of Insurance Commissioners shall issue instructions outlining the conditions under which such contracts or agreements will be approved."

Section 2 of the amendatory Act of 1951 repealed conflicting laws or parts of laws.

Prior to repeal, section 1 was amended by Acts 1941, 47th Leg., p. 871, ch. 542, § 1.

TITLE 79—INTEREST

Art.

5074a. Cash and time prices in sales of motor vehicles [New].

Art. 5074a. Cash and time prices in sales of motor vehicles

Section 1. WHEREAS, It has heretofore been recognized by the courts of this State that a seller may have a cash price for his commodities and may have also a different and higher time credit price for the same commodity, and that such difference in said prices do not constitute interest for the forbearance, use or detention of money or credit; and

WHEREAS, The Federal Trade Commission has prescribed rules and regulations requiring that the items of cost taken into consideration by the seller of motor vehicles in arriving at the time credit price thereof be disclosed to the purchaser. It is the intention of this Act to preserve to the seller his legal right to sell motor vehicles on a time credit price and at the same time permit him to make disclosure to the purchaser of the motor vehicle, the items of cost the seller has taken into consideration in arriving at the time credit price for which the motor vehicle is sold.

Sec. 2. If after the effective date of this Act any seller of motor vehicles shall furnish or be required to furnish to the purchaser, a disclosure of the items of cost which the seller has taken into consideration in arriving at the time credit price for which the said motor vehicle has been sold, the furnishing of this information in writing by the seller to the purchaser and the quotation of the cash price shall not in any manner affect the validity of the whole or any part of the time credit price, nor in any manner change the legal nature of the time credit contract.

Sec. 3. In furnishing this information the seller shall have the right to ascertain the exact information concerning each of the said cost items from third persons without in any manner affecting or changing the legal nature of the time sales contract or time credit price to which the purchaser has agreed in writing.

Sec. 4. If the seller shall have furnished the purchaser an itemization in writing of such cost items as the seller has taken into consideration in arriving at the time credit price, and the purchaser has signed a written contract evidencing the agreement that the motor vehicle has been purchased under a time credit price, said written contract shall constitute prima facie evidence of the fact that said motor vehicle was sold for a time credit price.

Sec. 5. If any section, subsection, or clause of this Act is for any reason held to be unconstitutional, such decision shall not thereby affect the validity of any of the remaining portions of this Act, and it is hereby declared that this Act would have been passed notwithstanding the absence of such portion hereof so declared unconstitutional. Acts 1951, 52nd Leg., p. 821, ch. 467.

Emergency. Effective June 21, 1951.

Section 6 of the act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act to preserve the legality of the time credit price and its component parts

in the sale of motor vehicles sold on installment terms; containing a constitutional clause; providing for the repeal of all laws or parts of laws in conflict herewith; and declaring an emergency. Acts 1951, 52nd Leg., p. 821, ch. 467.

TITLE 82—JUVENILES

Art.
5139A. Juvenile board in certain counties [New].
5139B. Counties of 100,000 inhabitants bordering on Mexico [New].
5139F. Juvenile board in counties of 110,000 to 125,500 population [New].

Art.
5139G. Juvenile board in counties comprising special 9th district court [New].
5139H. Juvenile boards in counties of 12th Judicial District [New].

Art. 5139A. Juvenile board in certain counties

In all counties having a population of less than forty thousand (40,000) inhabitants according to the last preceding Federal Census which are included in and form a judicial district of five or more counties having a combined total population of at least sixty-eight thousand (68,000) inhabitants and not more than sixty-eight thousand three hundred (68,300) inhabitants according to the last preceding Federal Census, the judge of the judicial district and the county judge of each county are hereby constituted a juvenile board for each county within the judicial district. The members composing each county juvenile board within the judicial district may each be allowed additional compensation of not less than One Hundred Fifty (\$150.00) Dollars per annum and not more than Twelve Hundred (\$1200.00) Dollars per annum which shall be paid in twelve (12) equal installments out of the general funds of each county, such additional compensation to be fixed by the Commissioners Court of each county. Added Acts 1951, 52nd Leg., p. 283, ch. 165, § 1.

Emergency. Effective May 11, 1951.

Sections 2 and 3 of the Act of 1951, read as follows:

"Sec. 2. If any portion of this Act is held to be unconstitutional the remaining portion shall nevertheless be valid.

"Sec. 3. This Act shall be cumulative of existing law and shall not be construed as repealing any law fixing the compensation of judges of the district courts or of county judges, and provided that the compensation allowed county judges hereunder shall not be counted as fees of office."

Art. 5139B. Counties of 100,000 inhabitants bordering on Mexico

In all counties having a population of more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, and bordering on the Republic of Mexico, the Judges of the District Courts and the County Judges are hereby constituted a County Juvenile Board. The members of the County Juvenile Board shall each be allowed additional compensation in the amount of Fifteen Hundred (\$1500.00) Dollars per annum which shall be paid in twelve (12) equal installments out of the general funds of the county. Provided, however, that no member of such Board shall receive more than Fifteen Hundred (\$1500.00) Dollars per annum as compensation for services on such Board. Added Acts 1951, 52nd Leg., p. 543, ch. 319, § 1.

Emergency. Effective June 2, 1951.

Sections 2 and 3 of the act of 1951 read as follows:

"Sec. 2. If any portion of this Act is held unconstitutional by a court of competent jurisdiction, the remaining provisions hereof shall nevertheless be valid.

"Sec. 3. This Act shall be cumulative of existing laws and shall not be construed as repealing any law fixing the compensation of Judges of the District Courts or of County Judges."

Art. 5139(E). Juvenile boards in certain counties

(1) At the effective date of this Act there is hereby established and constituted a three-member Juvenile Board in each of the counties of this State coming within the purview of the provisions of Paragraph (2) here-

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

of, to be composed of the county judge of the county and the district judges of the judicial districts therein. The county judge of said county shall be chairman of such Board and its chief administrative officer. The official title of the Board in said county shall be the name of the county followed by the words: "County Juvenile Board."

(2) The Juvenile Board created in the foregoing Section is established and constituted in each county wherein there are two (2) district courts, one of which is composed of one (1) county only, the other of which is composed of two (2) counties, and in such one-county judicial district there is located a city with a population of more than twenty-four thousand (24,000) according to the last preceding Federal Census.

(3) As compensation for the added duties hereby imposed upon members of such Juvenile Board, each member thereof may, if approved by the Commissioners Court of the County, be compensated by an annual salary not to exceed Twenty-four Hundred Dollars (\$2400) payable in twelve (12) monthly equal installments; and such compensation shall be in addition to all other compensation now provided for or allowed county and district judges by law, and shall be paid out of the general fund of the county. As amended Acts 1951, 52nd Leg., p. 373, ch. 237, § 1.

Emergency. Effective May 17, 1951.

Section 2 of the amending Act of 1951 was identical with section 2 of the act of 1950, and section 3 was substantially identical with section 3 of the act of 1950.

Art. 5139F. Juvenile board in counties of 110,000 to 125,500 population

Section 1. In any county having a population of more than one hundred and ten thousand (110,000) inhabitants and less than one hundred and twenty-five thousand, five hundred (125,500) inhabitants according to the last preceding Federal Census, the Judges of the several District Courts of such county, together with the County Judge of such county, are hereby constituted a Juvenile Board for such county. The members composing such Juvenile Board in such county may each be allowed additional compensation of not less than Six Hundred Dollars (\$600) per annum nor more than Twenty-five Hundred Dollars (\$2500) per annum, which shall be paid in twelve (12) equal installments out of the general fund of such county, such additional compensation to be fixed by the Commissioners Court of such county.

Sec. 2. If any portion of this Act is held to be unconstitutional the remaining portion shall, nevertheless, be valid.

Sec. 3. This Act shall be cumulative of existing law and shall not be construed as repealing any law fixing the compensation of the Judge of the District Courts or of County Judges. Acts 1951, 52nd Leg., p. 108, ch. 64.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act providing for County Juvenile Boards in counties having a population of more than one hundred and ten thousand (110,000) inhabitants and less than one

hundred and twenty-five thousand, five hundred (125,500) inhabitants according to the last preceding Federal Census; providing for severability; providing that this Act shall be cumulative of existing law; and declaring an emergency. Acts 1951, 52nd Leg., p. 108, ch. 64.

Art. 5139G. Juvenile board in counties comprising special 9th district court

Section 1. In each county comprising the Special 9th District Court, the judge of the district court or the district courts together with the county judge of the county shall constitute the juvenile board of such county. The members of such board shall be allowed additional com-

compensation of not less than One Hundred (\$100.00) Dollars per annum and not more than Six Hundred (\$600.00) Dollars per annum to be fixed by the Commissioners Court and paid monthly in twelve (12) equal installments out of the general fund of the county.

Sec. 2. This Act shall be cumulative of existing laws relating to compensation of judges of the district courts and county judges.

Sec. 3. If any portion of this Act is held unconstitutional by a court of competent jurisdiction the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part hereof. Acts 1951, 52nd Leg., p. 768, ch. 419.

Emergency. Effective June 15, 1951.

Title of Act:

An Act providing for county juvenile boards in each county comprising the Special 9th District Court; providing for compensation of members of the boards; pro-

viding that this Act shall be cumulative of existing laws relating to compensation of judges of district courts and county judges; providing a savings clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 768, ch. 419.

Art. 5139H. Juvenile boards in counties of 12th Judicial District

Section 1. In each county comprising the 12th Judicial District, the judge of the district court together with the county judge of the county shall constitute the juvenile board of such county. The members of such board shall be allowed additional compensation of not less than One Hundred (\$100.00) Dollars per annum and not more than Three Hundred (\$300.00) Dollars per annum to be fixed by the commissioners court and paid monthly in twelve (12) equal installments out of the general fund of the county.

Sec. 2. This Act shall be cumulative of existing laws relating to compensation of judges of the district courts and county judges.

Sec. 3. If any portion of this Act is held unconstitutional by a court of competent jurisdiction, the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part hereof. Acts 1951, 52nd Leg., p. 769, ch. 420.

Emergency. Effective June 15, 1951.

Title of Act:

An Act providing for county juvenile boards in each county comprising the 12th Judicial District; providing for compensation of members of the boards; providing

that this Act shall be cumulative of existing laws relating to compensation of judges of district courts and county judges; providing a savings clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 769, ch. 420.

TITLE 83—LABOR

CHAPTER FIFTEEN—INSPECTION OF STEAM BOILERS

Article 5221c. Inspection and inspectors

Inspection companies to file reports of inspections; boilers inspected by insurance companies exempt from other inspections; certificate of operation

Sec. 5. Every insurance company insuring boilers in this State shall, within thirty (30) days after inspecting any steam boiler, file a duplicate report of such inspection with the Commissioner showing the date of such inspection together with the name of the person making such inspection, and such report shall show fully the condition and location of such boiler at the time such inspection was made. Such report shall also state when the policy of insurance was issued by the insurance company on said boiler and the date of expiration of such policy of insurance.

The owner or user of every boiler inspected by an inspector for an insurance company authorized to do business in this State on which such insurance company has issued a policy of insurance after inspection thereof, shall be exempt from other inspections and inspection fees under the provisions of this Act; provided nothing in this Section shall prevent the Commissioner from authorizing the inspection of any insured boiler at any reasonable time when, in the opinion of the Commissioner, such insured boiler may be in an unsafe condition, provided the Commissioner shall contact the insurance company carrying insurance on said boiler and that the inspector for the insurance company carrying such insurance and the inspector or deputy inspector shall jointly and together inspect the boiler, within twenty (20) days, for which inspection no additional charge shall be made as set forth in Section 12 of this Act. The Commissioner is authorized and has authority to issue a Certificate of Operation to the owner or user of all boilers subject to inspection under this Act, and the owner or user of an insured boiler shall pay the sum of Two Dollars (\$2) for each Certificate of Operation issued, and the owner or user of a State inspected boiler shall pay a like sum of Two Dollars (\$2) for each Certificate of Operation issued, which said fee shall be and is absorbed by the internal and external inspection fee authorized in Section 12 of this Act. Every insurance company shall notify the Commissioner in writing of the cancellation or expiration of every policy of insurance issued by it with reference to boilers in this State, within twenty (20) days after the expiration or cancellation of said policy, giving the cause or reason for such cancellation or expiration. Such notice of cancellation or expiration shall show the date of the policy and the date when the cancellation or expiration has or will become effective. As amended, Acts 1951, 52nd Leg., p. 273, ch. 158, § 1.

Fees for inspections

Sec. 12. The Commissioner shall fix and collect fees for the inspection of steam boilers covered by this Act which exceed thirty (30) inches in diameter. Three Dollars and Twenty-five Cents (\$3.25) for each external inspection, and not to exceed Nine Dollars and Thirty-five Cents (\$9.35) for each internal inspection in each twelve (12) months period; and for boilers exceeding twenty-four (24) inches in diameter and not exceeding thirty (30) inches in diameter, Six Dollars and Twenty-five Cents (\$6.25) for each complete inspection in each twelve (12) months period; and boilers not exceeding twenty-four (24) inches in diameter,

Three Dollars and Twenty-five Cents (\$3.25) for each complete inspection in each twelve (12) months period. Provided that, when a boiler is found unfit for further use no Certificate of Inspection shall be issued and the use of such condemned boiler may be prohibited. Provided further that the Commissioner or any of his employees shall not have authority to prescribe the make, brand or kind of boilers to buy or purchase. And provided that when any inspector or employee of the Commissioner tears down a boiler in a cleaning and pressing establishment said inspector or employee shall assist the owner to repair and assemble said boiler as it was before it was dismantled, and if he fails to assist said owner said fee shall not be paid. Such fees must be paid by the owner or user before the issuance of a Certificate of Operation for the boiler inspected. No fees shall be charged the owner or user by the Commissioner when the inspection herein provided for has been made by an inspector holding a commission as inspector from said Commissioner if the holder of such commission as inspector is employed by any county, or city and county, or city, or insurance company except the charge fixed for Certificate of Operation in Section 5 hereof. All fees collected by the Commissioner under this Act shall be paid into the State Treasury to the credit of the 'State Boiler Inspection Fund' together with a detailed report of same, and said moneys so deposited in said special fund are hereby appropriated for the purpose of paying the expenses of the administration of this Act. As amended, Acts 1951, 52nd Leg., p. 273, ch. 158, § 1.

Emergency. Effective May 10, 1951.

TITLE 86—LANDS—PUBLIC

CHAPTER THREE—SURFACE AND TIMBER RIGHTS

2. SALES

Art. 5320a.	Extension of time of payment. [New].	Art. 5326j.	Reinstatement of purchases forfeited prior to September 1, 1945 [New].
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2. SALES

Art. 5320a. Extension of time of payment

The time for the payment of all notes or obligations executed by purchasers of school land for the unpaid balance of principal due the State thereon which are due or will become due prior to November 1, 1961, is hereby extended to November 1, 1961, subject to all the pains and penalties provided in the Acts under which the purchases were made; provided that the extension of time herein granted shall apply only to installments of principal, and shall not apply to any installments of interest; and provided further, that the unpaid balances of principal upon which an extension of time for payment is hereby granted shall bear interest during said period of extension at the rate provided for in the contract of purchase hereby extended, and past due installments of interest shall bear interest at the rate provided for in Section 7,¹ Chapter 271, General Laws, Regular Session, 42nd Legislature. Acts 1951, 52nd Leg., p. 92, ch. 59, § 1.

¹ Article 5421c, § 7.

Emergency. Effective April 20, 1951.

Art. 5326, 5423. Forfeiture for nonpayment of interest; reinstatement; outstanding grazing leases

If any portion of the interest on any sale should not be paid when due, the land shall be subject to forfeiture by the Commissioner entering on the wrapper containing the papers 'Land Forfeited,' or words of similar import, with the date of such action and sign it officially, and thereupon the land and all payments shall be forfeited to the State, and the lands may be offered for sale on a subsequent sale date. In any case where lands have heretofore been forfeited or may hereafter be forfeited to the State for non-payment of interest, the purchasers, or their vendees, heirs or legal representatives, may have their claims reinstated on their written request by paying into the Treasury the full amount of interest due on such claim up to the date of re-instatement, provided that no rights of third persons may have intervened. The right to re-instate shall be limited to the last purchaser from the State or his vendees or their heirs or legal representatives. Such right must be exercised within five (5) years from the date of the forfeiture. In case there is an outstanding valid grazing lease which would prevent re-instatement within the time prescribed by this Act then such claim may be re-instated within sixty (60) days after the expiration of such grazing lease, provided application for re-instatement shall have been filed in the General Land Office within the five-year period above prescribed, accompanied with payment of all interest due thereon. In all cases the original obligations and penalties shall thereby become as binding as if no forfeiture had ever occurred. If any purchaser shall

die, his heirs or legal representatives shall have one (1) year in which to make payment after the first day of November next after such death, before the Commissioner shall forfeit the land belonging to such deceased purchaser; and should such forfeiture be made by the Commissioner within said time, upon proper proof of such death being made, such forfeiture shall be set aside, provided that no rights of third persons may have intervened. Nothing in this Article shall inhibit the State from instituting such legal proceedings as may be necessary to enforce such forfeiture, or to recover the full amount of the interest and such penalties as may be due the State at the time such forfeiture occurred, or to protect any other right to such land. As amended Acts 1951, 52nd Leg., p. 92, ch. 59, § 2.

Emergency. Effective April 20, 1951.

Art. 5326j. Reinstatement of purchases forfeited prior to September 1, 1945

In cases where Public Free School Lands have been previously sold and forfeited by the Commissioner of the General Land Office for nonpayment of interest prior to September 1, 1945, the purchasers, at the date of forfeiture, or their vendees, heirs or legal representatives, may have their purchases reinstated provided the rights of third parties may not have intervened and further provided that application, together with payment of all principal and interest due and owing on such purchases shall have been made to the Commissioner of the General Land Office prior to February 1, 1951. In case there is an outstanding valid grazing lease which would prevent reinstatement within the time prescribed by this Act, then such claim may be reinstated within sixty (60) days after the expiration of such grazing lease, provided application for reinstatement shall have been filed in the General Land Office prior to February 1, 1951, accompanied with full payment of all principal and interest due thereon. Acts 1951, 52nd Leg., p. 436, ch. 269, § 1.

Emergency. Effective May 19, 1951.

Similar provisions:

Acts 1951, 52nd Leg., p. 448, ch. 275, § 1, eff. May 19, 1951, read as follows:

"In cases where public free school lands have been previously sold and forfeited by the Commissioner of the General Land Office for nonpayment of interest prior to September 1, 1945, the purchasers at the date of forfeiture or their vendees, heirs or legal representatives, may have their purchases reinstated, provided the rights of third parties may not have intervened, and further provided that application together with payment of all delinquent interests due and owing on such purchases shall have been made to the Commissioner of the General Land Office prior to March 5, 1951."

Acts 1951, 52nd Leg., p. 453, ch. 280, § 1, eff. May 19, 1951, read as follows: "In cases where Public Free School Lands have been previously sold and forfeited by the Commissioner of the General Land Office for nonpayment of interest prior to September 1, 1945, the purchasers, at the date of forfeiture, or their vendees, heirs or legal representatives, may have their purchases reinstated provided the rights of third parties may not have intervened and further provided that application, together with payment of all interest due and owing on such purchases shall have

been made to the Commissioner of the General Land Office prior to March 15, 1951."

Acts 1951, 52nd Leg., p. 458, ch. 284, § 1, eff. May 19, 1951, read as follows: "In cases where Public Free School Lands have been previously sold and forfeited by the Commissioner of the General Land Office for nonpayment of interest or their vendees, heirs or legal representatives may have their purchases reinstated, provided the rights of third parties may not have intervened, and further provided that application together with payment of all delinquent interests due and owing on such purchases shall have been made to the Commissioner of the General Land Office prior to April 11, 1951."

Title of Act:

An Act authorizing the Commissioner of the General Land Office to reinstate sales of land forfeited prior to September 1, 1945, and on which applications have been filed for reinstatement prior to February 1, 1951, and on which there are no intervening rights of a third person; and where there is a valid outstanding grazing lease, providing reinstatement within sixty (60) days after the expiration of such grazing lease; providing that payment of all principal and interest shall be made prior to February 1, 1951; and declaring an emergency. Acts 1951, 52nd Leg., p. 436, ch. 269.

Art. 5330a. Regulating sale and patenting of lands formerly part of Oklahoma; special Land Board abolished; powers and duties of General Land Office

Special land board abolished; transfer of rights and duties

Sec. 2. The rights and duties of the Special Land Board are transferred to the General Land Office, and the Special Land Board is abolished. The General Land Office shall have the power to ascertain the bona fide claimants of said lands as shown by the public records and under the laws of the State of Oklahoma, to make such surveys and investigations as may be necessary to carry out the provisions of this Act, and to adopt such rules, regulations and forms as it may deem expedient. As amended Acts 1951, 52nd Leg., p. 298, ch. 177, § 1.

Effective 90 days after June 8, 1951, date of adjournment. application which might be covered by the law, and that the function of the Special

The act of 1951 contained a preamble reciting that there was only one pending Land Board was practically extinct.

CHAPTER FOUR—OIL AND GAS

4. GENERAL PROVISIONS

Art. 5382c. Agreements for operation of areas as a unit [New].

Art. 5382d. Lease of lands of State Departments, Board and Agencies [New].

4. GENERAL PROVISIONS

Art. 5382b. Surveys and investigations of areas within tidewater limits

Offering for lease

Sec. 7a. All areas within tidewater limits shall be offered for lease in accordance with existing laws except that said areas shall be advertised for a period of thirty (30) days prior to the lease sale date. As amended Acts 1951, 52nd Leg., p. 343, ch. 214, § 1.

Emergency. Effective May 17, 1951.

Art. 5382c. Agreements for operation of areas as a unit

Section 1. Subject to the provisions of this Act, the Commissioner of the General Land Office, on behalf of the State of Texas or any fund belonging thereto, is authorized to execute agreements that provide for the operation of areas as a unit for the exploration, development, and production of oil and gas, or either of them, and to commit to such agreements the royalty interests in oil and gas, or either of them, reserved to the State or any fund thereof by law, in any patent, in any contract of sale, or under the terms of any oil and gas lease lawfully made by an official, board, agent, agency, or authority of the State; provided (a) that agreements that commit such royalty interests in lands set apart by the Constitution and laws of this State for the Permanent Free School Fund and the several asylum funds, in river beds, inland lakes, and channels, and the area within tidewater limits, including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea, are approved by the School Land Board, and are executed by the owners of the soil if they cover lands leased for oil and gas under the Relinquishment Act, Articles 5367 to 5379, inclusive, Revised Civil Statutes of Texas, 1925, as amended; (b) that agreements that commit such royalty interests in lands or areas other than those mentioned in the pre-

ceding clause (a) of this Section 1, are approved by the board, official, agent, agency, or authority of the State vested with authority to lease or to approve the leasing of said lands or areas for oil and gas; and (c) that any such agreement is found by the Commissioner of the General Land Office to be to the best interest of the State.

Sec. 2. Any agreement authorized to be executed under the provisions of this Act may provide: (1) that operations incident to the drilling of a well upon any portion of a unit shall be deemed for all purposes to be the conduct of such operations upon each separately owned tract in the unit by the several owners thereof; (2) that the production allocated by the agreement to each tract included in a unit shall, when produced, be deemed for all purposes to have been produced from such tract; (3) that the agreement and/or lease, with respect to the interest of the State, shall remain in force as long as oil and gas, or either of them, is produced from the unit in paying quantities and royalties paid to the State thereon; (4) that the royalties reserved to the State or any fund thereof as aforesaid on production from any tract or portion thereof included within the unit shall be paid only on that portion of the production allocated to the tract in accordance with the agreement; and (5) such other things as the board, official, agent, agency or authority of the State vested with authority to lease or approve the leasing of said lands may deem necessary for the protection of the interests of the State.

Sec. 3. The provisions of this Act are and shall be held and construed to be cumulative of all laws of this State on the subject treated of and embraced in this Act, and those prior laws in conflict herewith to the extent only that they may be in conflict are hereby repealed.

Sec. 4. If any section, subdivision, paragraph, sentence, or clause of this Act be held to be unconstitutional, the remaining portions of this Act shall nevertheless be held valid and binding. Acts 1951, 52nd Leg., p. 254, ch. 150.

Emergency. Effective May 10, 1951.

Art. 5382d. Lease of lands of State Departments, Board and Agencies

Boards for lease

Section 1. There is hereby created Boards for lease of lands owned by any Department, Board or Agency of the State of Texas, which Boards for Lease shall consist of the Commissioner of the General Land Office, who shall be chairman, the Attorney General and the particular President or Chairman of the Board or Agency, or Head of the Department charged with the responsibility of management or control of lands now owned by, or that may hereafter be owned by, or held in trust for, the use and benefit of said Department, Agency or Board. The title of each Board hereby created shall be selected by each Board for Lease at its first meeting after the effective date of this Act. Each Board for Lease shall keep a complete record of all of its proceedings. A majority of each Board for Lease shall constitute a quorum for the transaction of business by that particular Board. Each Board for Lease shall select a Secretary who shall be nominated by the Commissioner of the General Land Office and approved by a majority of the particular Board for Lease.

Lands which may be leased

Sec. 2. All lands or any parcel of same now owned by, or that may hereafter be owned by, or held in trust for the use and benefit of, a Department, Agency or Board may be leased by the appropriate Board for Lease to any person or persons, firms, or corporations subject to and as

provided for in this Act, for the purpose of prospecting or exploring for and mining, producing, storing, caring for, transporting, preserving, selling and disposing of the oil, gas or other minerals.

Survey and subdivision; abstracts of title

Sec. 3. Each Board for Lease is hereby authorized to cause the lands subject to its control to be surveyed or subdivided into such tracts, lots or blocks as will, in its judgment, be most conducive and convenient to facilitate the advantageous sale of oil, gas or mineral leases thereon, and to make such maps and plats as may be thought necessary to carry out the purposes of this Act. Each Board for Lease is further authorized to obtain authentic abstracts of title to all of the lands subject to its control as it may deem necessary, and to take such steps as may be necessary to perfect a merchantable title to such lands.

Placing leases on market; advertisement; bidding

Sec. 4. Whenever in the opinion of the appropriate Board for Lease there shall be such a demand for the purchase of oil, gas or mineral leases on any lot or tract of land subject to the control of the Board as will reasonably insure an advantageous sale, the Board for Lease shall place such oil, gas or mineral leases on the market in such tract or tracts as the Board for Lease may designate. The Board for Lease shall insert in at least four daily newspapers in at least three issues of each, thirty days in advance of a sale date, an advertisement to the effect that leases will be offered for sale on a certain date and that lists describing the land to be leased may be obtained from the General Land Office. Bidding shall be by sealed bid, and the bids will be opened at ten o'clock A.M. on the sale date by a majority of the Board for Lease.

Bids

Sec. 5. A separate bid shall be made for each tract offered for lease. No bid shall be accepted which offers a royalty of less than $\frac{1}{8}$ of the gross production of oil, gas or other minerals, and no bid shall be accepted which offers a cash bonus of less than Two (\$2.00) Dollars per acre; this minimum bonus and royalty may be increased at the discretion of the Board for Lease. Every bid shall carry the obligation to pay an amount not less than One (\$1.00) Dollar per acre annual rental beginning with the second year of the lease, such amount to be fixed by the Board in advance of the advertisement. The bid shall further name the amount of cash bonus offered in addition to the royalty and rental provided for, and shall be accompanied by cash, or checks collectible in Austin, Texas, payable to the Commissioner of the General Land Office, to cover such amount. The Board may at its discretion fix the rental and royalty and provide for bidding on a basis of the highest cash bonus offered, or it may fix the cash bonus and rental and provide that the bidding shall be on a basis of the highest royalty offered. The Board for Lease shall have the right to reject any and all bids, but unless the Board elects to reject any and all bids, it shall be required to accept the highest bid submitted.

Minutes

Sec. 6. All awards or leases shall be issued by the Commissioner of the General Land Office in accordance with the minutes as approved by the appropriate Board for Lease. The minutes shall show the fact of acceptance of a bid or the rejection of a bid and the approval of the minutes will constitute the approval of the act of acceptance or the act of rejection, as the case may be.

Term of leases; mineral leases separate

Sec. 7. Leases issued by the Commissioner of the General Land Office shall be for a primary term not to exceed five years and as long thereafter as oil, gas or other minerals covered by such lease is produced therefrom in paying quantities, provided that all leases for minerals, except oil and gas, shall be granted on separate leases and for separate considerations.

Operations subject to laws and orders of regulatory authority

Sec. 8. Operations for drilling or mining oil, gas or other minerals and the production of same under any lease issued under the authority given in this Act shall be subject to all laws of the State of Texas and valid orders made by the Railroad Commission of Texas, or other regulatory authority controlling the development of leases for the production of oil, gas or other minerals, and such other regulations as the appropriate Board for Lease, at its discretion, may adopt.

Rentals and royalties; examination of books, accounts, etc.

Sec. 9. Beginning with the second year of the lease and annually thereafter for each of the following years during the life of said lease, the lessee shall pay the annual rental specified by the Board for Lease unless oil, gas or other minerals are being produced in paying quantities. When royalties paid during any year during the life of the lease equal or exceed the annual rental, no annual rental will be due for the following year; otherwise, there shall be due and payable on or before the anniversary date of said lease the annual rental specified by the Board for Lease less the amount of royalties paid during the preceding year. All rental and royalty payments shall be paid to the Commissioner of the General Land Office at Austin, Texas, and royalty payments shall be paid on or before the 20th day of the month following the month in which the oil, gas or other minerals may be produced. The payments shall be accompanied by sworn statements of the lessee, manager, or other authorized agent showing the gross amount of production since the last report and the market value of same, together with copies of all daily gauges of tanks, gas meter readings, pipe line run tickets and receipts and other checks or memoranda of the amounts produced. The books, accounts, records, and contracts pertaining to production, transportation, sale and marketing of the oil, gas or other minerals shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General and the Chairman, President or other member of the appropriate Board for Lease or the representative of either of them. The State shall have a first lien upon all oil, gas or other minerals produced from the area covered by the lease to secure the payment of all unpaid royalty and/or other sums of money that may become due under the lease.

Duty of lessee

Sec. 10. The lessee shall reasonably develop the lease by drilling or mining to such extent as the facts may justify. The lessee shall adequately protect the oil, gas or other minerals under the land covered by the lease from drainage from adjacent lands or leases. Neither the bonus, rentals nor royalties, paid or to be paid under said lease, shall relieve the lessee from such obligations. If oil and/or gas should be produced in paying quantities from a well on land privately owned, which well is within one thousand feet of the area covered by the lease, or in any case where the land covered by the lease is being drained, the lessee shall, within sixty days after such initial production on private land begin in good faith and prosecute diligently the drilling of an offset well on the area covered by his lease. Such offset well shall be drilled to such

depth as may be necessary to prevent the undue drainage of the area covered by the lease and the lessee, manager, or driller shall use all means reasonably necessary in a good faith effort to make such offset well produce in paying quantities.

Assignments and relinquishments

Sec. 11. All rights purchased may be assigned. All assignments must be recorded in the county or counties where the area is located and the recorded assignment or a certified copy of same shall be filed in the General Land Office within one hundred days from the date of the first acknowledgment thereof, accompanied by ten cents (10¢) per acre for each acre assigned and a filing fee of One (\$1.00) Dollar; and if not so filed and payment made, the assignment shall not be effective. All rights to any whole tract or to any assigned portion thereof may be relinquished to the State at any time by having an instrument of relinquishment recorded in the county or counties where the area is located and filing the recorded relinquishment or certified copy of same in the General Land Office, accompanied by a filing fee of One (\$1.00) Dollar. Such relinquishment shall not have the effect of releasing the lessee from any obligation or liability theretofore accrued in favor of the State.

Forfeiture of leases

Sec. 12. If the owner of the rights acquired under this Act shall fail or refuse to make the payment of any sum due, either as rental on the lease or for royalty on production, within thirty days after it shall become due, or if such owner or his authorized agent should knowingly make any false return or false report concerning production, royalty, or drilling, or if such owner should fail or refuse to drill any offset well or wells in good faith, as required by his lease and the rules and regulations adopted by the appropriate Board for Lease, or if such owner or his agent should refuse the proper authority access to the records and other data pertaining to operations under his lease or if such owner or his authorized agent should knowingly fail to furnish the log of any well within thirty days after production is found in paying quantities, or if any of the material terms of the lease should be violated, such lease shall be subject to forfeiture by the Commissioner of the General Land Office, and when forfeited the area shall again be subject to lease to the highest bidder, under the same regulations controlling the original sale of leases. Forfeitures may be set aside and the lease and all rights thereunder reinstated at any time before the rights of a third party intervene upon satisfactory evidence to the Commissioner of the General Land Office of future compliance with the provisions of this Act and the rules and regulations that may be adopted relative hereto.

Surveys and investigations

Sec. 13. The appropriate Board for Lease is hereby authorized to issue permits for geological, geophysical and other surveys and investigations on lands subject to lease by the Board for Lease, which are not then subject to valid and subsisting leases, for such consideration and under such terms and conditions as said Board for Lease may deem to be the best interest of the State of Texas, and which will encourage the development of said lands for oil, gas or other minerals.

Filing in General Land Office

Sec. 14. All surveys, files, records, abstracts of title, copies of sale and lease contracts and all other records pertaining to the sale and leases hereby authorized shall be filed in the General Land Office and shall constitute archives thereof.

Repeals; lands not subject to law

Sec. 15. All laws and parts of laws in conflict herewith are hereby expressly repealed; provided, however, that the provisions of this Act shall not be construed to apply to those lands dedicated by the Constitution and laws of the State to the Public Free School Fund, the University of Texas, or lands donated to the Board of Regents of the University of Texas, as Trustees, by a will, instrument in writing, or otherwise in trust for a scientific, educational, or other charitable or public purpose, nor to any other land under the control of the Board of Regents of the University of Texas; nor shall the terms of this Act apply to any lands whose title is vested in the State for use and benefit of any part of the Texas A & M College System, or to lands under the control of the Board of Directors of the Agricultural and Mechanical College of Texas; nor shall the provisions of this Act apply to land subject to lease under the provisions of Subdivision 3, Chapter 4, Title 86 of the Revised Statutes of the State of Texas, 1925, and amendments thereto commonly known as the "Relinquishment Act"; provided further, that should title to any lands subject to the provisions of the Relinquishment Act be acquired by any Department, Board or Agency of the State, such lands shall not be subject to lease by any Board herein created, but shall be leased in the same manner as is now or may hereafter be provided for the leasing of unsold Public Free School Lands.

Deposit and expenditure of receipts

Sec. 16. Any amounts received under and by virtue of this Act shall be deposited in the State Treasury to the credit of special funds to be known as the "(appropriate Department, Board or Agency) Special Mineral Fund", which funds are hereby created, and shall be used exclusively for the benefit of the appropriate Department, Board or Agency; provided, however, no money shall ever be expended from these funds except by legislative appropriation and then for the purposes and in the amounts stated in the Act appropriating same. Provided however, that all monies received under the provisions of this Act enuring to the benefit of the Game, Fish and Oyster Commission shall be deposited in the State Treasury to the credit of the "Special Game and Fish Fund".

Expenses of executing law

Sec. 17. The expenses of executing the provisions of this Act shall be paid by warrants drawn by the Comptroller of the State on the State Treasurer, and for that purpose the sum of Ten Thousand (\$10,000.00) Dollars or so much thereof as may be necessary is hereby appropriated for the biennium ending August 31, 1953, out of any monies in the State Treasury not otherwise appropriated, after which time expenses of executing the provisions of this Act shall be paid by warrants drawn by the Comptroller of the State on the State Treasurer against the income from the Special Funds accumulated from leases, rentals, royalties, and other payments.

Partial unconstitutionality

Sec. 18. If any section, subdivision, paragraph, sentence, or clause of this Act be held to be unconstitutional, the remaining portions of this Act shall nevertheless be held valid and binding. Acts 1951, 52nd Leg., p. 556, ch. 325.

Emergency. Effective June 2, 1951.

CHAPTER SEVEN—GENERAL PROVISIONS

Art. 5421i. Suspension of running of primary term of oil and gas lease pending litigation

The running of the primary term of any oil, gas, or mineral lease heretofore or hereafter issued by the Commissioner of the General Land Office, which lease has been, is, or which may hereafter become involved in litigation relating to the validity of such lease or to the authority of the Commissioner of the General Land Office to lease the land covered thereby, shall be suspended, and all obligations imposed by such leases shall be set at rest during the period of such litigation. After the rendition of final judgment in any such litigation, the running of the primary term of such leases shall commence again and continue for the remainder of the period specified in such leases, and all obligations and duties imposed thereby shall again be operative provided such litigation has been instituted at least six (6) months prior to the expiration of the primary term of any such leases. Provided, further, that the lessee shall pay all annual delay rentals and any royalties which accrue during the period of litigation the same as during any other period of the extended primary term. Such rentals paid during the litigation period shall be held in suspense and returned to the lessee in the event the State is unsuccessful in any such litigation. As amended Acts 1951, 52nd Leg., p. 750, ch. 406, § 1.

Emergency. Effective June 15, 1951.

Art. 5421m. Veterans' Land Board

Bond issue

Sec. 3. The Board, by appropriate action, is hereby authorized at one time, or from time to time, to provide by resolution for the issuance of negotiable bonds, which in no event shall exceed the aggregate sum of One Hundred Million (\$100,000,000.00) Dollars. The proceeds from the sale of any bond, or bonds, shall be used for the purpose of creating the Veterans Land Fund provided for in the Constitution. At the option of the Board, said bonds may be issued in one (1) or several installments. The bonds of each issue shall be dated, and shall bear interest at a rate not exceeding three (3%) per cent per annum, which interest may, at the option of the Board, be payable annually or semi-annually; shall mature serially or otherwise not sooner than June 1, 1960, and not later than forty (40) years from their date; provided, however, that any bonds previously issued shall mature in accordance with their provisions; shall be payable in such medium of payment as to both principal and interest as may be determined by the Board; and may be made redeemable before maturity, at the option of the Board, at such price or prices, and under such terms and conditions as may be fixed by the Board in the resolution providing for the issuance of the bonds. The Board shall determine the form of the bonds, including the forms of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of principal and interest thereon. Said bonds shall be executed by and on behalf of the Veterans Land Board as obligations of the State of Texas in the following manner: They shall be signed by the Chairman and Secretary respectively of the Board, and the seal of the Board shall be impressed thereon, and they shall be signed by the Governor of the State of Texas, and attested by the Secretary of State of the State of Texas with the seal of the State of Texas impressed thereon. The resolution authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile

signatures and facsimile seals in lieu of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the Chairman and Secretary of the Board. In the event any officer whose manual or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of bonds, the signature shall, nevertheless, be valid and sufficient for all purposes, the same as if he had remained in office until such delivery had been made. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said record and bonds shall be approved by him. After such approval, the bonds shall be registered in the office of the State Comptroller of Public Accounts of Texas. Such bonds having been approved by the Attorney General and 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 or any rights incident thereto, the certificate of approval by the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of their validity. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. All bonds issued under the provisions of this Act shall have, and are hereby declared to have, all of the qualities and incidents of negotiable instruments under the laws of this State. The Board is fully authorized to provide for the replacement of any bond which might have become mutilated, lost or destroyed. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 1.

Payment of principal and interest; legal investments

Sec. 9(a). Each year until December 1, 1959, there shall be set aside and paid from the Veterans Land Fund sufficient moneys to pay interest and principal due on all the bonds theretofore issued and outstanding. After December 1, 1959, all moneys received by the Veterans Land Board under the terms of this Act, or so much thereof as may be necessary, shall be set aside and used to pay principal and interest on bonds then outstanding as they shall mature. When there is in the Veterans Land Fund an amount fully sufficient to pay all interest on, and principal of, the outstanding bonds due and to become due thereafter, any moneys in excess of such amount shall be deposited to the credit of the General Fund of the State of Texas to be appropriated to such purposes as may be prescribed by law. The moneys so set aside and not deposited to the credit of the General Revenue Fund may be invested by the Board in bonds of the United States, or the State of Texas, or of the several counties or municipalities or other political subdivisions of the State of Texas, and such Board may sell such bonds, or any of them, at the governing market rate.

(b). Said Board may, if it so desires, designate the Treasurer of this State as fiscal agent for the payment of principal of and interest on the bonds; if said Treasurer is so designated he shall act without compensation.

(c). If said Board, at any time during the existence of said Veterans Land Fund, shall determine that during the following biennium there will not be sufficient moneys in said Fund to pay principal of and/or interest on said bonds which will fall due during the said following biennium, the Legislature shall appropriate from the General Fund of the State sufficient moneys to meet such obligation, such appropriated moneys to be used for said purposes only if at the time said principal and/or interest actually fall due there are not sufficient moneys in the Veterans Land Fund to pay same.

(d) All bonds heretofore or hereafter issued pursuant to the provisions of Section 49-b of Article III of the Constitution and Statutes enacted to implement the provisions thereof shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and all other political sub-divisions and public agencies of the State of Texas. Such bonds, when accompanied by all unmatured coupons appurtenant thereto, shall be lawful and sufficient security for said deposits in the amount of the par value of said bonds. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 2.

Use of fund to purchase lands

Sec. 10. Until December 1, 1959, the Veterans Land Fund, except a sufficient amount to pay the interest and principal due on outstanding bonds, shall be used by the Board for the purpose of purchasing land situated in this State, and (a) owned by the United States, or any governmental agency thereof; (b) owned by the Texas Prison System, or any other governmental agency of the State of Texas; (c) owned by any person, firm or corporation. The said land so purchased to be sold, as hereinafter provided, to Texas veterans, as hereinafter defined. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 3.

Price of land; payment; title

Sec. 11. All land purchased by the Board shall be acquired at the lowest price obtainable, in the opinion of said Board, taking into consideration the quality, location, natural advantages and improvements of such land, and shall be paid for in cash and shall be clear of all liens and shall constitute a part of the Veterans Land Fund. It shall be the duty of the Board, before making payment for any land, to have the title of the property sought to be bought, examined, and may require for this purpose an abstract of this title or a policy of title insurance, and may refer the same to the Attorney General for his examination and opinion. The Board may purchase lands which are subject to outstanding mineral leases if the purchase includes all delay rentals payable thereunder, a minimum of a one-sixteenth ($\frac{1}{16}$) royalty and all of the reversionary right in the minerals except that such purchase may be made subject to outstanding mineral interests not exceeding $\frac{1}{2}$ of the reversionary mineral fee estate and one-half ($\frac{1}{2}$) of the delay rentals payable under existing leases if such interests were outstanding on June 6, 1949; the Board may purchase land subject to outstanding oil, gas and other mineral interests aggregating not more than one-half ($\frac{1}{2}$) of the full fee simple title to the minerals and mineral rights therein, provided such interest was outstanding on June 6, 1949; if no mineral or royalty interest was outstanding on June 6, 1949, the purchase must include the full fee simple title to all of the minerals subject to no greater burden than a one-sixteenth ($\frac{1}{16}$) non-participating royalty interest, if such title be otherwise good and merchantable. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 4.

Veteran defined

Sec. 14. The term "veteran" as used in this Act, and the phrase "Texas veterans of the present war or wars, commonly known as World War II," and the phrase "Texas veterans of service in the armed forces of the United States of America subsequent to 1945" as used in Section 49-b of Article III of the Constitution, or as same may be amended, shall be synonymous, and shall be construed for the purpose of this Act to mean any citizen of the United States, male or female, over eighteen (18)

years of age, who served not less than ninety (90) days, unless sooner discharged because of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard or Marine Corps of the United States between September 16, 1940, and December 31, 1952, and who upon the date of filing his or her application has not been dishonorably discharged from the branch of the service in which he or she served, and who at the time of his or her enlistment, induction, commission or drafting was a bona fide resident of this State, and who at the time of seeking the benefits of this Act is a bona fide resident of this State. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 5.

Purchase of land selected by veteran

Sec. 16. Anything contained in this Act to the contrary notwithstanding, it is expressly provided that where the veteran desires a particular tract of land located in this State which he can purchase for not exceeding Fifteen Thousand (\$15,000.00) Dollars, he may, upon proper showing of eligibility to benefits hereunder, be authorized by the Board to select the land which he desires and submit his selection to such Board on such form as it may prescribe. The Board may purchase such land from the owner thereof upon the terms agreed, if the Board is satisfied of the value and desirability of the property submitted, and pay not to exceed Seven Thousand, Five Hundred (\$7,500.00) Dollars of the purchase price, provided the veteran pays cash for all the purchase price over Seven Thousand, Five Hundred (\$7,500.00) Dollars. The Board shall make such appraisal of the property as it deems necessary in order to determine value, and before consummating a purchase shall satisfy itself as to title, as provided in Section 10 of this Act. The property so acquired shall become a part of the Veterans Land Fund, but the veteran who has selected the land so acquired shall have a preference right to purchase the same from the Board. The rules and regulations governing the sale of land under this section shall be governed by the provisions hereinafter made with reference to sale of land generally by the Board, except where same conflicts with this section. In order to be entitled to such preference right, the veteran shall, before the Board purchases said land, have agreed, in writing, to purchase said selected land from the Board at the purchase cost to the Board, and shall have deposited five (5%) per cent of the purchase price with the Board, which deposited money shall be by the Board deposited with the State Treasurer in a suspense account to be held until the title of said land is approved and accepted by the Board, at which time said deposit shall be applied to the down payment on the contract of sale and purchase of land by said veteran. If the title to said land is not approved and accepted by the Board, said deposit by the veteran shall be returned to him. Provided, however, that any "veteran" as that term is herein defined, who is disabled by reason of a service-connected disability sustained in combat, shall have a preference right over all other veterans for ninety (90) days to purchase any of said land after same is placed on the market by the Board under the provisions of this section. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 6.

Contract of sale; payments; transfer; deed

Sec. 17. The sale of all lands hereunder by the Board may be properly initiated by contract of sale and purchase, and said contract shall be recorded in the deed records in the county where the land is located. The purchaser shall make an initial payment of at least five (5%) per cent of the selling price of the property. The balance of said selling price shall be amortized over a period to be fixed by the Board, but not exceeding forty (40) years, together with interest thereon at the rate of three (3%) per cent per annum; provided, however, that the

purchaser shall have the right on any installment date to pay any or all installments still remaining unpaid; provided further, that in any individual case the Board may for good cause postpone from time to time, upon such terms as the Board may deem proper, the payment of the whole or any part of any installment of the selling price or interest thereon. The Board is empowered in each individual case to specify the terms of the contract entered into with the purchaser, not contrary to the provisions of this Act, but no property sold under the provisions of this Act shall be transferred, sold or conveyed, in whole or in part, until the purchaser has enjoyed possession for a period of three (3) years from the date of purchase of said property and complied with all the terms and conditions of this Act and the rules and regulations of the Board; provided, however, that property sold under the provisions of this Act may be transferred, sold, or conveyed at any time after the entire indebtedness due the Board has been paid. When the entire indebtedness due the State under the contract of sale is paid, the Chairman of the Veterans Land Board shall execute a deed under its seal to the original purchaser of the land, which deed shall inure to the benefit of the legal owner of said land. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 7.

Oil, gas and mineral leases

Sec. 18. If at any time, while the veteran is indebted to the Board for the land purchased, he should execute, or there is in existence, an oil, gas and mineral lease covering such land, or any part thereof, at least one-half ($\frac{1}{2}$) of all bonus money received as consideration and one-half ($\frac{1}{2}$) of all delay rentals paid under such lease and one-half ($\frac{1}{2}$) of all royalties received (or so much thereof as may be required) shall be paid to the Board by the owner of said lease and applied by it toward the satisfaction of said indebtedness. The lease made by the veteran will be of no force or effect until the Board has received its portion thereof, as herein provided. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 8.

Land unsold on December 1, 1959

Sec. 23. Any lands of the Fund remaining unsold on December 1, 1959, may be sold to anyone in such manner, at such price, and upon such terms as at said time shall be prescribed by law. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 9.

Bonds exempt from taxation

Sec. 30. Bonds heretofore and hereafter issued pursuant to the provisions of Section 49-b of Article III of the Constitution as same may be amended, and Statutes enacted to implement said provision of the Constitution, shall be exempt from every character and kind of taxation by the State of Texas, cities, towns, villages, counties, school districts, and all other political sub-divisions, and public agencies of the State of Texas. Added Acts 1951, 52nd Leg., p. 550, ch. 324, § 10.

Validation of acts, covenants and accounts

Sec. 31. All actions heretofore taken by the Board under the provisions of Section 49-b of Article III of the Constitution and Chapter 318, Acts of the Regular Session of the 51st Legislature; all bonds heretofore issued by the Board; all covenants contained in resolutions authorizing the issuance of bonds; and all reserve accounts authorized to be set up in resolutions authorizing the issuance of such bonds are hereby validated. Added Acts 1951, 52nd Leg., p. 550, ch. 324, § 11.

Amendment to Section 49b of Article III of the Constitution was adopted by the qualified electors at the election held on November 13, 1951.

TITLE 87—LEGISLATURE

Art.
5429d. Distribution of journals [New].

Art. 5429d. Distribution of journals

Section 1. The Presiding Officers of the House of Representatives and Senate shall appoint one (1) of their employees to perform the duty of distributing the Journal for each House respectively.

Sec. 2. It shall be the duty of such appointee to distribute to the Governor, to each Member of the Legislature and upon request, to heads of departments, a copy of the printed Journals of both Houses. Acts 1951, 52nd Leg., p. 218, ch. 131.

Emergency. Effective May 2, 1951.

TITLE 90—LIENS

CHAPTER TWO—MECHANICS, CONTRACTORS AND MATERIAL MEN

Art. 5452. 5621, 3294 Lien prescribed

Any person or firm, lumber dealer or corporation, artisan, laborer, mechanic or subcontractor who may labor or furnish material, machinery, fixtures or tools: (a) to erect or repair any house, building or improvement whatever; (b) for the construction or repair of levees or embankments to be erected for the reclamation of overflow lands along any river or creek in this State; (c) or who may furnish any material for the construction or repair of any railroad within this State under or by virtue of a contract with the owner, owners, or his or their agent, trustee, receiver, contractor or contractors; upon complying with the provisions of this Chapter shall have a lien on such house, building, fixtures, improvements, land reclaimed from overflow, or railroad, and all of its properties, and shall have a lien on the lot or lots of land necessarily connected therewith, or reclaimed thereby, to secure payment for the labor done, lumber, material, machinery or fixtures and tools furnished for construction or repair. The word "improvement" as used herein shall be construed so as to include clearing, grubbing, draining or fencing of land, and shall include wells, cisterns, tanks, reservoirs or artificial lakes or pools made for supplying or storing water and all pumps, siphons, and windmills or other machinery or apparatus used for raising water for stock, domestic use or for irrigation purposes and shall also include the planting of orchard trees, grubbing out of orchards and replacing trees, and pruning said orchard trees. As amended Acts 1951, 52nd Leg., p. 593, ch. 348, § 1.

Emergency. Effective June 2, 1951.
Section 2 of the amendatory Act of 1951 read as follows: "If any portion of this Act is held unconstitutional by a court of competent jurisdiction, the remaining pro-

visions hereof shall nevertheless be valid the same as if the portion or portions held unconstitutional had not been adopted by the Legislature."

TITLE 91—LIMITATIONS**Art. 5541. 5707, 3372, 3221 Presumption of death**

Any person absenting himself for seven years successively shall be presumed to be dead, unless proof be made that he was alive within that time; but an estate recovered on such presumption, if in a subsequent action or suit the person presumed to be dead shall be proved to be living, shall be restored to him with the rents and profits of the estate with legal interest during such time as he shall be deprived thereof; provided, however, that no person delivering such estate, or any portion thereof, to another under proper order of a court of competent jurisdiction shall be liable therefor. As amended Acts 1951, 52nd Leg., p. 315, ch. 192, § 1.

Emergency. Effective May 17, 1951.

TITLE 92—LUNACY—JUDICIAL PROCEEDINGS IN CASES OF**Art. 5561b. Restoration proceedings and discharge**

Section 1. The provisions of this Act shall apply to all persons who have been both adjudged of unsound mind and as needing restraint by a jury under the provisions of Title 92, Revised Civil Statutes of the State of Texas, 1925, entitled "Lunacy—Judicial Proceedings in Cases of," and committed to a State Hospital in accordance therewith, and not charged with a criminal offense, and to none other.

Sec. 2. The provisions of this Act are intended to be and shall be both mandatory and exclusive.

Sec. 3. Whenever an inmate of a State Hospital thus committed shall be found by the superintendent thereof to have recovered to an extent that he is no longer of unsound mind, it shall be the duty of said superintendent to immediately certify that fact to the judge of the county court of the county from which the inmate was committed and file an affidavit asking for the restoration of said inmate, such restoration proceedings to be heard and determined in the same manner as now provided by law. It shall be the duty of said judge to docket and try such proceedings at the earliest possible time.

Sec. 4. Whenever an inmate of a State Hospital shall have been thus certified by the superintendent thereof as recovered, it shall also be the duty of said superintendent to immediately release said inmate, if not already on furlough, from said hospital, but in no event shall such inmate be discharged from said hospital unless and until his restoration has been adjudged by a court of competent jurisdiction. Provided, however, if restoration proceedings are not instituted within six (6) months after certification, it shall be the duty of the superintendent to discharge such patient from said hospital.

Sec. 6. If any section, provision or part of this Act should be held to be unconstitutional, or invalid, for any reason, it shall not affect the remainder of this Act. As amended Acts 1951, 52nd Leg., p. 855, ch. 480, § 1.

Emergency. Effective June 21, 1951. datory Act of 1951, repealed conflicting
Section 5 of the Act of 1949, as original- laws and parts of laws.
ly enacted, and as reenacted by the amen-

TITLE 93—MARKETS AND WAREHOUSES**CHAPTER FIVE—GINNERS AND COTTON**

Arts. 5670–5674. Repealed. Acts 1951, 52nd Leg., p. 309, ch. 186, § 1, eff. May 16, 1951

The emergency section of the repealing act recited that the repeal of other articles had made arts. 5670–5674 of no force.

TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES

CHAPTER THREE—NATIONAL GUARD

Art. 5798a—2. Veterans county service office

Appointment of officers; 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 by the appointing authority. 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 or Canada during the Spanish American War, World War I or World War II, for a period of at least four (4) months, and have been honorably discharged from such service, or a widowed Gold Star Mother or un-remarried widow of a serviceman or veteran whose death resulted from service, and shall have been given a certificate of approval by the Veterans Affairs Commission, and/or a letter of approval from the State Commander of a veterans organization chartered by Congress; provided, however, that lack of such certificate or letter shall not disqualify a person otherwise qualified. A statement showing that applicant possesses the above necessary qualifications 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. As amended Acts 1951, 52nd Leg., p. 597, ch. 351, § 1.

Emergency. Effective June 2, 1951.

The name "Eleemosynary Institutions" changed to "Texas State Hospitals and Special Schools", see art. 3174a.

Art. 5798a—4. Veterans' Affairs Commission

Veterans' Land Board, see art. 5421m.

CHAPTER SIX—TEXAS STATE GUARD RESERVE CORPS

Article 5891c. Organization authorized

Texas State Guard Reserve Corps

Section 1. In order to provide a reservoir of military strength for use by the State of Texas in time of National or State emergency, when any part of the Texas National Guard shall have been called into Federal Service, or in any other emergency when the Governor of Texas shall deem it necessary or advisable to supplement the Texas National Guard as the State Militia of Texas, and to eliminate any delay in the organization of an adequate and efficient State Militia under such circumstances, a Texas State Guard Reserve Corps is hereby created, authorized, and provided. As amended Acts 1951, 52nd Leg., p. 466, ch. 296, § 1.

Organization and Personnel

Sec. 2(a). The Texas State Guard Reserve Corps shall consist of such units as the Governor of Texas shall deem advisable. The Texas State Guard Reserve Corps shall be composed of all present members of such Corps, whether assigned to existing units or unassigned, and such other citizens of Texas as may volunteer for service therein and who shall have attained the age of seventeen (17) years, who shall meet such other qualifications as shall be prescribed by the Governor, and who shall be acceptable to and approved by the Governor, or by the Adjutant-General under his direction. The commissioned officers of such Corps shall be appointed, commissioned, and assigned by the Governor, or under his authority and direction, to hold office and assignment during the pleasure of the Governor. All members of the Texas State Guard Reserve Corps shall be subject to serve on active duty in time of emergency at the call and by order of the Governor. As amended Acts 1951, 52nd Leg., p. 466, ch. 296, § 2.

Activation and Active Duty

Sec. 2(b). The Texas State Guard Reserve Corps, or any element, unit, or member thereof, may be activated and may be called to active duty, at the discretion of the Governor, as a part of the State Militia of Texas when any part of the Texas National Guard shall have been called into Federal Service, or in any other emergency when the Governor shall deem it necessary and advisable to supplement the Texas National Guard as the State Militia; and when activated or when upon active duty, the Texas State Guard Reserve Corps, or any element or unit thereof, shall function as the Texas State Guard and shall be a part of the State Militia of Texas, and shall have and exercise all rights, privileges, duties, functions, and authorities, which are now or which hereafter may be conferred or imposed by law upon the State Militia of Texas. As amended Acts 1951, 52nd Leg., p. 466, ch. 296, § 2.

Advisory Board

Sec. 3. An Advisory Board of ten (10) members shall be appointed by and serve during the pleasure of the Governor, to meet with the Adjutant-General of Texas and the Commanding General of the Texas State Guard Reserve Corps at frequent intervals to consider and advise the Governor upon all policies pertaining to the Texas State Guard Reserve Corps, including tables of organization, procurement and promotion of officer and enlisted personnel, inactive duty training, and all other matters pertaining to the policies and administration of the Texas State Guard Reserve Corps. The members of the Advisory Board shall be composed of present or former Regular, Retired, or Reserve Officers or enlisted personnel of the Armed Forces of the United States or the State Militia of Texas. As amended Acts 1951, 52nd Leg., p. 466, ch. 296, § 3.

Honorary Reserve

Sec. 4. At the discretion of the Governor, officers and enlisted personnel of the Texas State Guard Reserve Corps who become physically disabled, or who shall attain the age of sixty (60) years, may be transferred by the Governor, or under his authority and direction, to the Texas State Guard Honorary Reserve. Such officers and enlisted personnel may, at the discretion of the Governor, be advanced one grade or rank at the time of such transfer. As amended Acts 1951, 52nd Leg., p. 466, ch. 296, § 4.

Financial Assistance

Sec. 5(a). The Commissioners Court of each county and the Council or Commission of each city or town in this State is hereby authorized, in the discretion of each, to appropriate a sufficient sum not to exceed One Hundred Dollars (\$100) per month, not otherwise appropriated, to assist in paying the necessary expenses for the administration of any unit of the Texas State Guard Reserve Corps located in their respective counties and in or near their respective cities or towns; and any and all such donations heretofore made by any Commissioners Court or any Council or Commission of any city or town to any such unit or units of the Texas State Guard Reserve Corps, is hereby validated. Added Acts 1951, 52nd Leg., p. 466, ch. 296, § 6.

Leaves of Absence

Sec. 5(b). All officers and employees of the State of Texas and of any county or political subdivision thereof, including cities, towns, and villages, who shall be commissioned or enlisted personnel of the Texas State Guard Reserve Corps, or the Texas State Guard, shall be entitled to leaves of absence from their respective duties, without loss of efficiency rating, on all days during which they shall be engaged in active or inactive duty training, when such training is lawfully authorized and such person shall be ordered thereto, and without loss of pay for any period of time not to exceed twelve (12) days of such leaves of absence during any one calendar year; and any such leaves of absence shall be counted as a part of any vacation with pay as may be authorized and permitted by law; providing, however, the above limitation restricting leaves of absence with pay to twelve (12) days in any one (1) calendar year shall not apply to Members of the Legislature of Texas, who shall be entitled to pay on all days when they shall be absent from the sessions of the Legislature and engaged in such active or inactive duty training. Added Acts 1951, 52nd Leg., p. 466, ch. 296, § 7.

Command and Administration

Sec. 7. The Governor is hereby authorized to prescribe rules and regulations governing the qualifications of personnel, tables of organization, periods of service, command, administration, maintenance, training, discipline, and uniforms and equipment of the Texas State Guard Reserve Corps and its members. In so far as the Governor deems practical and desirable, such rules and regulations shall conform to existing laws, rules, and regulations governing and pertaining to the Texas National Guard. As amended Acts 1951, 52nd Leg., p. 466, ch. 296, § 5.

Emergency. Effective May 21, 1951.

Section 8 of the amendatory Act of 1951 read as follows: "Sec. 8. If any provision of this Act or the application thereof to any person or circumstances should be held invalid, such invalidity shall not affect any provisions of the Act which can

be given effect without the invalid provision, and to this end the provisions of this Act are declared to be severable."

Section 9 repealed inconsistent laws and parts of laws to the extent of the inconsistency.

TITLE 102—OIL AND GAS

NATURAL GAS

Art.
6052a. Liquefied Petroleum Gas Division
of Railroad Commission [New].

GENERAL PROVISIONS

Art. 6008—1. Interstate Compact to Conserve Oil and Gas; Extension of Compact

Extension to Sept. 1, 1955:

U.S.—Resolution of Congress, Aug. 28,
1951, c. 350, 65 Stat. —.

Ill.—Laws 1951, p. 1172, (S.H.A. ch. 104,
§ 24.)

Kan.—Laws 1951, ch. 329.

NATURAL GAS

Art. 6052a. Liquefied Petroleum Gas Division of Railroad Commission

Section 1. It is hereby declared the purpose of this Act¹ to provide, and there is hereby created, a separate division of the Railroad Commission of Texas, to be known as the Liquefied Petroleum Gas Division of the Railroad Commission of Texas, to administer the laws of the State of Texas pertaining to the liquefied petroleum gas operations in Texas. The Railroad Commission of Texas shall appoint and employ a Director of such division who shall devote his full time in administering the provisions of this Act, and sufficient employees shall be provided for the enforcement of this Act. The Railroad Commission of Texas shall, through the Liquefied Petroleum Gas Division, administer or cause to be administered the duties imposed upon it by the laws of the State of Texas pertaining to the liquefied petroleum gas industry.

Sec. 7. (a) Any operator or dealer in this state who, upon the effective date of this Act, was in bona fide legal operation under the authority of a license issued to him by the Gas Utilities Division of the Railroad Commission of Texas as provided for in Article 6053 of the Revised Civil Statutes, as amended, shall be deemed to be in compliance with all the terms, requirements and prerequisites of this Act, provided this authority does not extend beyond December 31, 1951.

(b) The Liquefied Petroleum Gas Division is authorized, empowered and directed to recognize as meeting the provisions of this Act any examination, test, or requirement imposed heretofore by the Gas Utilities Division of the Railroad Commission of Texas as a prerequisite to securing and holding a license under said Railroad Commission. Where an operator, dealer, or other affected person under the provision of this Act, or of Article 6053 of the Revised Civil Statutes, as amended, has heretofore satisfactorily complied with the rules, regulations, and requirements of the Gas Utilities Division of the Railroad Commission of Texas, he shall not be required to again take an examination in order to qualify for a license under this Act. All persons, firms, corporations, or other affected persons except those specifically excluded in the above paragraph who in the future apply for a license to do business under the provisions of this Act must comply with all its provisions. Acts 1951, 52nd Leg., p. 612, ch. 363.

¹ This article and art. 6053.

Emergency. Effective June 2, 1951.

Section 9 of the Act of 1951 repealed conflicting laws or parts of laws in so far

as in conflict. Section 10 read as follows:

"In the event that any section, subsection, paragraph, sentence, clause, phrase,

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

or word of this Act shall be held invalid, unconstitutional, or inoperative, such holding shall not affect the validity of the remaining portions of this Act; and the

Legislature hereby declares that it would have enacted all remaining portions despite such invalidity or unconstitutionality."

Art. 6053. Regulation of utilities

Rules and regulations; exceptions; cooperation by Department of Public Safety; suit to set aside rules and regulations

Sec. 6.

(c) Within thirty (30) days after the publication of any rules and regulations promulgated by the Railroad Commission under the authority of this Act, any holder of a license provided for in Section 7 and who is affected by any such rule or regulation promulgated by the Commission may bring an action in the District Court of Travis County, Texas, to set aside any such rules or regulations as being unreasonable, unnecessary, or impractical in accomplishing the purpose of the Act or if the same be unnecessary, discriminatory or unjust. The petition of any such party shall set forth the rules and regulations so complained of and shall in detail set forth the reasons why such rules and regulations are unnecessary, discriminatory, or unjust. In all such trials the burden of proof shall be upon the party complaining of such rules and regulations. In such trials no presumption of validity shall be indulged in favor of any order entered by the Commission, but evidence as to the validity or reasonableness thereof shall be introduced in such trials, and the determination thereof made upon facts to be found therein as in other civil cases and the procedure for such trials shall be governed solely by the rules of evidence and law followed by the courts of this state and under the constitution, statutes, and rules of procedure applicable to the trial of civil actions. It is the intent of the Legislature that such trials shall be strictly de novo and that the decision in each such case shall be made independently of any action taken by the Commission and upon a preponderance of the evidence adduced at such trial. In all such trials, those portions of the record of the hearing before the Commission which would be admissible in evidence if the witnesses or documents were tendered in court under the rules of evidence, shall be admitted in evidence without the necessity of producing the witnesses in person or by deposition or producing the original documents; provided further, that any adverse party may cross-examine any witness whose testimony from the record is so introduced, either by having him subpoenaed to appear when available or by taking his oral or written deposition under the provisions of the Texas Rules of Civil Procedure, and such cross-examination shall not be construed as causing the testimony of any such witness to be binding in any manner upon the party calling him for such cross-examination. Added Acts 1951, 52nd Leg., p. 612, ch. 363, § 2.

License; safety and protection of public

Sec. 7.

(c) All licenses issued under the provisions of this Act shall be automatically renewed between September 1st and September 15th each year by each licensee upon the filing of an application, which application should be accompanied by the annual fee or fees hereinafter provided for, and filing of evidence that said licensee is covered by insurance policies as required by this Act. The Railroad Commission shall provide such renewal forms. The license provided for herein shall apply only to persons engaged in business for hire. Added Acts 1951, 52nd Leg., p. 612, ch. 363, § 3.

Annual fees**Sec. 10.**

(c) Renewal of all licenses shall be effected by the payment of the annual fee or fees and the furnishing to the Railroad Commission of the evidence that said licensee is covered by the insurance policies required by this Act. All necessary renewal forms shall be furnished by the Railroad Commission. Added Acts 1951, 52nd Leg., p. 612, ch. 363, § 4.

Bonds and insurance

Sec. 11. No license shall be issued pursuant to this section unless such licensee shall first file with the Commission a surety bond in the sum of Two Thousand (\$2,000.00) Dollars with a bonding company authorized to do business in Texas. All such bonds shall provide that the obligator herein will indemnify and pay the State of Texas, to the extent of the face amount thereof, all judgments which may be recovered in the name of the State of Texas against such licensee, during the term of such bond and proximately caused by any violation, by said licensee, of the terms of this Act or any orders or rules promulgated by the Liquefied Petroleum Gas Division of the Railroad Commission of Texas, as authorized by this Act.

In addition to the bond herein required, such licensee shall be required to procure from some reliable insurance carrier qualified to do business in this state, and keep same in force so long as they shall continue in business, insurance coverage as follows:

"(1) Automobile bodily injury and property damage insurance coverages on each and every motor vehicle, including trailers and semi-trailers, used in the transportation of liquefied petroleum gases, in an amount of not less than Five Thousand (\$5,000.00) Dollars for bodily injuries sustained by any one person in any one accident and not less than Ten Thousand (\$10,000.00) Dollars for bodily injuries sustained by two or more persons in any one accident, and not less than Five Thousand (\$5,000.00) Dollars total property damage for any one accident.

(2) Manufacturers and Contractors liability policy in an amount of not less than Five Thousand (\$5,000.00) Dollars for bodily injuries sustained by any one person in any one accident and not less than Ten Thousand (\$10,000.00) Dollars for bodily injuries sustained by two or more persons in any one accident, and not less than Five Thousand (\$5,000.00) Dollars total property damage for any one accident.

(3) Workmen's compensation or employers' liability coverage. As amended Acts 1951, 52nd Leg., p. 612, ch. 363, § 5.

Refusal or cancellation of license

Sec. 12. The Commission shall have the power and authority, and it shall be its duty, to refuse to grant an original license to any applicant as it shall appear to the Commission upon hearing as herein provided that such applicant and licensee has failed to comply with any provision of this Act; and the Commission shall also have the power and authority, and it shall be its duty, to cancel the existing license of any licensee if it shall appear to the Commission upon hearing, as herein provided, that such licensee has violated or failed to comply with any provision of this Act. As amended Acts 1951, 52nd Leg., p. 612, ch. 363, § 6.

Disposition of funds and fees; funds available for expenses

Sec. 18. All funds held or controlled and all fees received from licenses issued under this Act by the Railroad Commission of Texas for

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

the Liquefied Petroleum Gas Division and all funds thereafter received by the Railroad Commission under the provisions hereof, shall be deposited in the State Treasury, as received, to the credit of the Liquefied Petroleum Gas Division and expended in accordance with appropriations made by law. The funds realized from fees shall be applied first to the payment of the necessary expenses of the Liquefied Petroleum Gas Division in enforcing and administering the provisions of this Act. The members of said Railroad Commission shall look alone to the revenue derived from the operation of this law, appropriated by the Legislature, for expenses of conducting the Liquefied Petroleum Gas Division and administering this Act. As amended Acts 1951, 52nd Leg., p. 612, ch. 363, § 8.

Emergency. Effective June 2, 1951.

TITLE 103—PARKS

4F. JIM HOGG MEMORIAL PARK

6. CITY PARKS

Art.
6077h—1. Facilities for recreational and park purposes; sale of timber [New].

Art.
6081i. Bond for parks and recreational facilities validated [New].

4F. JIM HOGG MEMORIAL PARK

Art. 6077h—1. Facilities for recreational and park purposes; sale of timber

Section 1. The State Parks Board is hereby authorized to repair, build, or construct facilities, to be used for recreational and park purposes at the Jim Hogg State Park, and to work in conjunction and cooperation with other governmental agencies in carrying out the purposes of this Act. To pay for the repairing, building, or construction of such facilities, the State Parks Board is hereby authorized to sell the timber or any part thereof from the lands comprising said Jim Hogg State Park and to use whatever amount of said timber is necessary to repair, build, or construct the improvements herein authorized; provided, however, that the timber to be sold or used shall be selectively cut under the supervision of the Texas Forest Service.

Sec. 2. The timber herein authorized to be sold shall be sold on competitive bids, the contract to be awarded to the party or parties who, in the judgment of the Texas Forest Service, have submitted the highest and best bid. Such contract, however, shall not be let until the same has been approved by the State Parks Board. The Texas Forest Service shall advertise for a period of two (2) weeks in at least one weekly newspaper, published and circulated in Cherokee County, for the sale of such timber or any part thereof, giving the necessary information pertaining thereto, and the time and place for receiving such bids. The first publication shall be at least ten (10) days before the date of receiving the bids. All such competitive bids shall be kept on file by the Texas Forest Service as part of their records and shall be subject to inspection by anyone desiring to see them. Copies of such bids shall be furnished to the State Parks Board. The Texas Forest Service shall have the right to reject any and all of said bids and re-advertise for new bids.

Sec. 3. There is hereby created a special fund to be known as the "Jim Hogg State Park Building Fund." The moneys derived from the sale of timber cut from the lands of said park shall be placed in the State Treasury to the credit of the above-designated fund and shall be expended by the State Parks Board in accordance with the provisions of this Act. Acts 1951, 52nd Leg., p. 133, ch. 82.

Emergency. Effective April 25, 1951.

Section 4 of the Act of 1951 repealed all conflicting laws and parts of laws to the extent of such conflict.

Section 5 provided that if any section,

subsection, sentence, clause or phrase of this Act shall be held unconstitutional for any reason, such fact shall not affect the remaining portions hereof.

5. COUNTY PARKS

Art. 6079c. Parks in counties on Gulf having suitable island, islands, or part of island

Application of law

Section 1. The provisions of this Act are applicable to all eligible counties. An "Eligible" County is one which borders on the Gulf of Mexico within whose boundaries is located any island, part of an island, or islands, suitable for park purposes. The suitability of such island, islands, or part of an island for park purposes shall be conclusively established when the Commissioners Court of such County shall have made a finding in an order passed by it that such island, islands, or part of island is or are suitable for park purposes.

Creation of board; powers

Sec. 2. Any Eligible County, for the purpose of improving, equipping, maintaining, financing, and operating any such public parks or park, owned by such county, may by order passed by the Commissioners Court create a Board to be designated "Board of Park Commissioners," hereinafter sometimes in this Act referred to as the "Board." Any such Board shall have the powers authorized in and shall perform the duties specified in this Act.

Personnel of board; compensation; expenses

Sec. 3. The Board of Park Commissioners shall be composed of seven (7) members. When the Commissioners Court of any such County adopts a resolution as aforesaid then the County Judge of such County shall appoint, subject to the approval of the Commissioners Court, seven (7) persons as members comprising the Board of Park Commissioners for such county. Three (3) of the Commissioners who are first so appointed shall be designated to serve for terms of six (6) years. Two (2) of the Commissioners who are first so appointed shall be designated to serve for terms of four (4) years, and the remaining Commissioners who are first so appointed shall be designated to serve for terms of two (2) years, respectively, from the date of their appointments, but thereafter Commissioners shall be appointed as aforesaid for a term of office of six (6) years; in the event of any vacancy the County Judge shall fill said vacancy by appointment for the unexpired term. No Park Commissioner may be an officer or employee of the county for which the Board of Park Commissioners is created, or an officer or employee of any incorporated city located in said county. A Park Commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any such Commissioner, executed by the County Judge and attested by the County Clerk and ex officio Clerk of the Commissioners Court of such County, shall be filed with the County Clerk and such certificate shall be conclusive evidence of the due and proper appointment of such Commissioner. Each Commissioner of said Board of Park Commissioners shall annually receive as compensation Fifteen Dollars (\$15) for each meeting attended for the first fifty-two (52) meetings held during a calendar year, but shall receive no compensation for any additional meetings held during such calendar year. Each Commissioner shall be compensated for all necessary expenses, including traveling, incurred in performing their duties as Park Commissioners; when an account shall have been thus approved it will be paid in due time by the Board's check or warrant.

Oath and bond

Sec. 4. Each Commissioner so appointed shall within fifteen (15) days after his appointment qualify by taking the official oath and by filing a good and sufficient bond with the County Clerk of such County, payable to the order of the County Judge of such County, and approved by the Commissioners Court. Such bond shall be in the sum prescribed theretofore by the Commissioners Court of such County, but not less than Five Thousand Dollars (\$5,000). Said bond shall be conditioned upon the faithful performance of the duties of such Commissioner, including the proper handling of all moneys that may come into his hands in his capacity as a Park Commissioner; the cost of said bonds shall be paid by the Board.

Powers vested in commissioners; quorum; necessary vote; officers; meetings; funds

Sec. 5. The powers under this Act shall be vested in the Board of Park Commissioners as constituted from time to time. Four (4) Commissioners shall constitute a quorum of the Board for the purposes of conducting its business and exercising its powers, and for all other purposes. The action of the Board may be taken by a majority vote of the Commissioners present. At the time of the appointment of the first Commissioners in any such County, the appointing power shall designate one (1) of the Commissioners as Chairman of the Board, who shall serve in that capacity until the expiration of the term for which he was appointed (or within such period until he may have vacated his office as a Commissioner), thereafter the Board shall elect a Chairman from among its Commissioners. The Board shall elect from among its own members a Vice-chairman, a Secretary, and a Treasurer. The office of Secretary and Treasurer may be held by the same person, and in the absence or unavailability of either the Secretary or the Treasurer in the event two (2) persons are holding said positions the other such officer may act for and perform all of the duties of such absent or unavailable officer during such period of absence or unavailability. The Board shall hold regular meetings at times to be fixed by the Board and may hold special meetings at such other times as the business or necessity may require. The money belonging to or under control of the Board shall be deposited and shall be secured substantially in the manner prescribed by law for county funds.

Depositories; warrants or checks; employees and agents; legal services; seal

Sec. 6. The depository or depositories for such funds shall be selected by the Board. Warrants or checks for the withdrawal of money may be signed by any officer of the Board and one (1) other Commissioner or, when duly designated by resolution entered in the minutes of the Board, by two (2) bonded employees of the Board. The Board may employ secretaries, stenographers, bookkeepers, accountants, technical experts, and such other agents and employees, permanent or temporary, as it may require and shall determine their qualifications, duties, and compensation. In addition the Board may also employ and compensate a manager for any park or parks and may give him full authority in the management and operation of the park or parks subject only to the direction and orders of the Park Board. For such legal services as it may require the Board of Park Commissioners may call upon the County Attorney of such County, and in lieu thereof or in addition thereto the Board may employ and compensate its own counsel and legal staff. The Board shall adopt a seal which shall be placed on all leases, deeds, and other instruments which are usually executed under seal, and on such other instruments as may be required by the Board.

Personal interest

Sec. 7. No Commissioner or employee of the Board shall acquire any pecuniary interest, direct or indirect, in any improvements, concessions, equipment or any business located within the confines of any public park administered by such Board, nor shall he have any interest, direct or indirect, in any contract or proposed contract for construction, materials or services in connection with or related to any park under control of the Board.

Records

Sec. 8. The Board of Park Commissioners shall keep a true and full account of all its meetings and proceedings and preserve its minutes, contracts, accounts, and all other records in a fire proof vault or safe. All such records shall be the property of the Board and shall be subject to inspection by the Commissioners Court at all reasonable times during office hours on business days.

Contracts, leases and agreements; particular purposes; disbursement of funds

Sec. 9. Such Board shall have full and complete authority to enter into any contract, lease or other agreement connected with or incident to or in any manner affecting the acquisition, financing, construction, equipping, maintaining, or operating all facilities located or to be located on or pertaining to any park or parks under its control. It shall also have authority to disburse and pay out all funds under its control for any lawful purpose for the benefit of any such park or parks.

Contracts, leases and agreements necessary and convenient

Sec. 10. Such Board shall have general power and authority to make and enter into all contracts, leases and agreements which said Board shall deem necessary and convenient to carry out any of the purposes and powers granted in this Act. Any such contract, lease or agreement may be entered into, without advertisement, with any person, real or artificial, any corporation, municipal, public or private, any governmental agency or bureau, including the United States Government and the State of Texas, and may make contracts, leases, and agreements, with any such person, corporation, or entities for the acquisition, financing, construction or operation of any facilities in, connected with or incident to any such park. Any and all contracts, leases and agreements herein authorized, to be effective, shall be approved by resolution of the Board and shall be executed by its Chairman or Vice-chairman and attested by its Secretary or Treasurer.

Suits

Sec. 11. Such Board shall have the right to sue and be sued in its own name.

Revenue bonds

Sec. 12. (a) For the purpose of providing funds for the acquisition of any permanent improvements to such park or parks, or for the acquisition by construction or otherwise of any facilities to be used in or connected with or incident to any such park or parks, or for any one or more of such purposes, the Board shall have the power from time to time and is hereby authorized by resolution (hereinafter sometimes called the "Resolution"), to procure the issuance of revenue bonds, hereinafter sometimes called the "Revenue Bonds," which shall be fully negotiable instruments under the Uniform Negotiable Instruments Law¹ and all other laws of Texas. Included but without limiting, among the permanent improvements and facilities which may be acquired through the issuance of Revenue Bonds are the following: bath houses, bathing beaches, swimming pools, pavilions, auditoriums, coliseums, stadia, athletic fields, golf courses, buildings and grounds for assembly, entertainment, health and

recreation, restaurant and refreshment places, yacht basins, and landing strips and ports for aircraft. Provided that no Revenue Bonds shall be issued under authority of such Resolution unless and until said Resolution shall have first been approved by the Commissioners Court of such County, evidenced by an order to that effect. Such Revenue Bonds shall be issued in the name of such County, signed by the County Judge and attested by the County Clerk and Ex Officio Clerk of the Commissioners Court of said County. They shall have impressed thereon the seal of the Commissioners Court of said County, shall mature serially or otherwise in not to exceed forty (40) years and may be sold by the Board at a price and under terms determined by the Board to be the most advantageous reasonably obtainable, provided that the average interest cost, taking into consideration the maturity date or dates of the Revenue Bonds calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, shall not exceed six per cent (6%) per annum. The Resolution authorizing the issuance of the bonds, rendered effective by the approving order of the Commissioners Court shall prescribe the details as to the Revenue Bonds. It may contain provisions for the calling of the Revenue Bonds for redemption prior to their respective maturity dates at such prices and at such times as may be prescribed in such Resolution, but except for such rights of redemption expressly reserved in the Resolution and in the Revenue Bonds they shall not be subject to redemption prior to their scheduled maturity date or dates. The bonds may be made payable at such times and at such places, within or without the State of Texas, as may be prescribed in the Resolution, and they may be made registerable as to principal, or as to both principal and interest.

(b) The Revenue Bonds may be issued in one or more series from time to time as required for carrying out the purposes of this Act.

(c) The bonds may be secured by a pledge of all or a part of the Net Revenues (as defined in Section 12(d) hereof) from the operation of such park or the parks, or the facilities thereof and incident thereto, or by a pledge of the net revenues both from said park or parks and said facilities, or any one or more thereof. The net revenues of any one or more contracts, operating contracts, leases, or agreements theretofore or thereafter made or to be made may be pledged as the sole, or as additional security, for the support of the bonds. Any other revenue specified in the Resolution of the Board may be pledged as the principal or as additional security for the bonds. In any such Resolution the Board may reserve the right under conditions therein specified to issue additional bonds which will be on a parity with, or subordinate to the bonds then being issued.

(d) The term "Net Revenues" as used in this Section and in this Act shall mean the gross revenues from the operation of the park or the parks, and the facilities thereof, leases, agreements and contracts, and incidents thereto, or from any one or more thereof, whose revenues shall have been thus pledged, after deduction of the necessary expenses as defined in Section 14 hereof.

(e) From the proceeds of the Revenue Bonds the Board may set aside, as shall be prescribed in the Resolution, an amount for payment of interest estimated to accrue during the construction period and in addition thereto such reserve for the interest and sinking fund as may be deemed proper. From the proceeds of the Revenue Bonds all expenses necessarily incurred in issuing and in selling the Revenue Bonds shall be paid. The remainder of such proceeds shall be used for the purposes specified in the Resolution, and comprehended by the purposes permitted under Section 12(d) of this Act.

(f) Said bonds shall never be construed to be a debt of the County or the State of Texas within the meaning of any constitutional or statutory provisions, but shall be payable solely and only from the revenues pledged to their payment as herein provided. Each Revenue Bond shall contain on its face substantially the following provisions:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

No such bonds shall ever be a debt of such County, but solely a charge upon the pledged revenues. Such bonds shall never be reckoned in determining the power of the County to incur obligations payable from taxation.

(g) So long as any of the Revenue Bonds are outstanding no additional bonds of equal dignity shall be issued against the pledged revenues except to the extent and in the manner expressly permitted in the Resolution.

(h) Before any such bonds are delivered to the purchaser they shall be submitted to the Attorney General along with the record pertaining thereto for his examination and approval. It shall be the duty of the Attorney General to approve the Revenue Bonds when issued in accordance with this Act. Bonds thus approved by the Attorney General and registered within the office of the Comptroller of Public Accounts shall be incontestable.

¹ Articles 5932-5948.

Refunding bonds

Sec. 13. Revenue Bonds which likewise will be fully negotiable, may be issued by Resolution first adopted by the Board and thereafter approved by order of the Commissioners Court of such County for the purpose of refunding bonds issued under this Act. The refunding bonds may be secured in the manner provided in this Act for securing original Revenue Bonds. No election shall be required for the issuance either of the bonds or of any refunding bonds. Such refunding bonds may be sold and the proceeds used to retire the original bonds, or may be issued in exchange for the original bonds, as may be provided in the resolution authorizing their issuance.

Expenses; fees and tolls

Sec. 14. (a) The expense of operation and maintenance of facilities whose revenues are pledged to the payment of bonds shall always be a first lien on and charge against the income thereof. So long as any of said bonds or interest thereon remain outstanding the Board shall charge or require the payment of fees and tolls for the use of such facilities which shall be equal and uniform within classes defined by the Board and which shall yield revenues at least sufficient to pay the expenses of such operation and maintenance, and to provide for the payments prescribed in the Resolution for "Debt service" as that term may be defined in the Resolution (which without limitation may include provisions for any or all of the following: the payment of principal and interest as such principal and interest respectively mature, the establishment and maintenance of funds for extensions and improvements, an operating reserve, and an interest and sinking fund reserve).

(b) The Board is authorized to determine the rates, charges and tolls which must be charged by it and by those, if any, having operating or lease contracts whose revenues are pledged with the Board for the use of such facilities and for the services to be rendered by such facilities.

Provisions applicable to bonds

Section 15. The following provisions shall be applicable as to Revenue Bonds issued under this Act:

(a) It shall be the duty of the Board to fix such tolls and charges for the use of the facilities whose revenues are thus pledged as will yield

revenues fully sufficient to operate and maintain such facilities and to permit full compliance by the Board with the covenants contained in the Resolution for the making of payments into the Debt Service Fund, including payments into any reserve accounts or funds created in the Resolution in connection with the issuance of the Bonds. In the event that any part of the security for the Revenue Bonds consists of money to be received by the Board as consideration for facilities belonging to the Board but operated by another or others under some form of lease or operating contract, it shall be the duty of the Board to fix and authorize rates, charges and tolls to be made by such person or persons for services to be rendered by such facilities, at least sufficient to assure the receipt by the Board of money which the Board is committed to pay from such source for Debt Service under the terms of the Resolution.

(b) The proceeds of the bonds shall be used and shall be disbursed under such restrictions as may be provided in the Resolution, and there shall be and there is hereby created and granted a lien upon such moneys, until so applied, in favor of the holders of the Revenue Bonds or of any trustee provided for in respect to such bonds, but neither the depository of such funds nor the trustee shall be obligated to see to the proper application of such fund except as expressly provided in the Resolution or in the indenture securing the bonds. Any surplus remaining from the bond proceeds after providing for the following: interest during construction and for such additional period as may be prescribed in the Resolution, and the creating of any reserve fund prescribed in the Resolution, shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices, with any remainder after such purchase to be deposited in the fund established in the Resolution for debt service.

(c) The Resolution may provide that such Revenue Bonds shall contain a recital that they are issued pursuant to and in strict conformity with this Act and such recital when so made shall be conclusive evidence of the validity of the Revenue Bonds and the regularity of their issuance.

(d) Any Revenue Bond issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county, or other political subdivision or taxing district of the State.

(e) If so provided in the Resolution an indenture securing the bonds may be executed by and between the County and a corporate trustee, and such Resolution may provide also for execution of the indenture by a corporate or an individual cotrustee. Any such corporate trustee or corporate cotrustee shall be any trust company or bank within or without the State of Texas having the powers of a trust company.

(f) Either the Resolution or such indenture may contain such provisions for protecting or enforcing the rights or remedies of the bondholders as may be considered by the Board reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board in reference to maintenance, operation or repair, and insurance (including within the discretion of the Board insurance against loss of use and occupancy) of the facilities whose revenues are pledged, and the custody, safeguarding and application of all moneys received from the sale of the Revenue Bonds, and from revenues to be received from the operation of the project.

(g) It shall be lawful for any bank or trust company in this State to act as depository for the proceeds of the bonds or revenues derived from the operation of facilities whose revenues may be pledged, or for the special funds created to assure payment of principal and interest on the Revenue Bonds, including reserve funds and accounts, or for one or more

of such classes of deposits, and to furnish such indemnity bonds or to pledge such securities as may be required by the Board.

(h) The Board may select such depository or depositories without the necessity of seeking competitive bids. Such deposits shall be secured in the manner required by law for the security of money belonging to counties. Provided that the Board in the Resolution or the indenture securing the Revenue Bonds may bind the Board to the use of direct obligations of the United States Government or obligations unconditionally guaranteed by the United States Government as security for such deposits. Such indenture, or ordinance, may set forth the rights and remedies of the bondholders and of the Trustee and may restrict the individual rights of action of the bondholders. The Resolution may contain all other suitable provisions such as the Board may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the terms and conditions upon which any or all of the bonds shall become, or may be declared to be due before maturity, and as to the rights, liabilities, powers and duties arising from the breach by the Board of any of its duties or obligations.

(i) That any holder or holders of the Revenue Bonds issued hereunder, including a trustee or trustees for such holders, shall have the right in addition to all other rights by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the Board or its employees, the agents and employees thereof, or any lessee or any of said facilities whose revenues are pledged, including but not limited to the right to require the Board to impose and establish and enforce sufficient and effective tolls and charges to carry out the agreements contained in the Resolution and indenture, or in both the Resolution and indenture, and to perform all agreements and covenants therein contained and duties arising therefrom, and in the event of default as defined in the Resolution authorizing the Revenue bonds or in the indenture securing the Revenue Bonds to apply for and obtain the appointment of a receiver for any of the properties involved. If such receiver be appointed he shall enter and take possession of the facilities whose revenues shall have been pledged and until the Board and the County may be no longer in default, or until relieved by the Court, retain possession of the properties involved and collect and receive all revenues and tolls arising therefrom in the same manner as the Board itself might do, and shall dispose of all such moneys and apply same in accordance with the obligations of the Board under the Resolution or indenture, and as the Court may direct. Nothing in this Act shall authorize any bondholder to require the Board to use any funds in the payment of the principal or of interest on the bonds except from the revenues pledged for their payment.

(j) The Resolution or the indenture securing the bonds may contain provisions to the effect that so long as the revenues of such park facilities are pledged to the payment of Revenue Bonds no free service shall be rendered by any of such facilities of the park for which tolls, charges and rentals are to be effective under the Resolution.

(k) All such revenue bonds shall be and are hereby declared to be legally authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds and other funds of the State of Texas, and of all municipal corporations, counties, political subdivisions, public agencies, and taxing districts within the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of

Texas, and any and all public funds of all municipal corporations, counties, political subdivisions, public agencies and taxing districts within the State of Texas, and such bonds shall be lawful and sufficient security for such deposits to the extent of their face value when accompanied by all matured coupons appurtenant thereto.

(l) The provisions contained in the Resolution and in the indenture and the applicable provisions of this Act shall constitute an irrevocable contract between the Board and the County on the one part and the holders of such bonds on the other part.

**Leases or operating agreements made prior to, or concurrently
with, authorization of bonds**

Sec. 16. At any time prior to the authorization of Revenue Bonds secured by a pledge of the revenues from any designated facility or facilities of the park or parks, the Board may within its discretion and for such period of time as it may determine make a contract or lease agreement with a company, corporation, or individual, for the operation of such facility, or facilities, the consideration for such contract or lease agreement to be specified, or the method of determining such consideration to be prescribed in such contract or lease agreement. The revenues from any such contract or agreement may be pledged in the Resolution or indenture as security or additional security for the Revenue Bonds. Any such facility or facilities may likewise be leased under such contract or lease agreement concurrently with the authorization of the issuance of said Revenue Bonds, and the revenues therefrom pledged as security or additional security for the Revenue Bonds; and in the event that issuance of said Revenue Bonds is authorized concurrently with the contract or lease agreement then the revenues from such contract or agreement shall constitute the sole or substantially all of the security for the Revenue Bonds such contract or agreement must provide that the rentals, tolls and charges to be enforced by such lessee for the use or services provided by such facility or facilities shall be sufficient at least to yield in the aggregate money necessary to pay the reasonable operation and maintenance expenses to assure proper operation and maintenance of such facility or facilities, plus an amount which will assure income to the Board to permit and assure payments into the several funds and accounts in the manner, at the times and in the amounts specified in the Resolution. Any such lease agreement or contract may provide that such rentals, tolls and charges may be sufficient to yield a reasonable profit to the other party to the lease agreement or contract, but to be realized only after payment in full of the obligation to the Board; any such operating or lease contract may provide for payment of the annual consideration or rental in monthly installments approximately equal and that failure to pay any required sum when due may be declared to be a breach of contract or agreement, entitling the Board under regulations prescribed therein to declare the contract or agreement forfeited and to take over the operation and maintenance of such facility or facilities, but such remedy shall be cumulative of all others therein provided or recognized.

Annual financial statement; budget; operation without seeking appropriation

Sec. 17. Before July 1st of each year the Board shall prepare and not later than July 1st file with the County Judge of such County a complete statement showing the financial status of the Board, its properties, funds and indebtedness. The statement shall be in two (2) parts or shall be so prepared as to show separately (a) all information concerning the Revenue Bonds, the income from pledged facilities, and expenditures of such revenues, and (b) all information concerning moneys

which may have been appropriated to the Board by the Commissioners Court, realized from taxation, and moneys, if any, realized from the sale of tax supported bonds theretofore issued by the County. Concurrently with the filing of such statement, the Board shall file with the County Judge of such County a proposed budget of its needs, if any, for the next succeeding calendar year. To the extent that the Board is able to finance its operations and to maintain its property from the revenues of facilities whose income is pledged to Revenue Bonds, in the manner provided in the Resolution or in the trust indenture, no approval or authorization by the Commissioners Court shall be necessary. But such budget shall involve only anticipated supplemental expenditures. The County Judge shall incorporate such requested budget in the County budget to be prepared by him during the month of July of each year. As a part of the County's tentative budget, the items thus certified by the Board shall be subject to the procedure for the County budget prescribed by Chapter 206, Acts of the Regular Session of the Forty-second Legislature, Sections 10 to 13, both inclusive, carried forward in Vernon's Annotated Statutes as Articles 689-a-9 to 689-a-12. It shall be the duty, however, of the Board to so operate said park or parks that there will be available from the gross revenues received from the operation of park facilities whose revenues are pledged to the payment of Revenue Bonds money sufficient to pay the operation and maintenance expenses of said facilities without seeking from the Commissioners Court the appropriation of additional money for the expense of maintaining and operating such facilities.

Rules and regulations

Sec. 18. The Board shall have the power to adopt and promulgate all reasonable regulations and rules, applicable to tenants, concessionaires, residents and users of park facilities, regulating hunting, fishing, boating and camping and all recreational and business privileges in any such park or parks.

Acceptance of grants and gratuities

Sec. 19. The Board is hereby authorized to accept grants and gratuities in any form from any source approved by the Board including the United States Government or any agency thereof, the State of Texas or any agency thereof, any private or public corporation; and any other person, for the purpose of promoting, establishing and accomplishing the objectives and purposes and powers herein set forth.

Validation of appointment and acts of existing board

Sec. 20. The appointment of any Board of Park Commissioners heretofore made is hereby validated provided any such park commissioners heretofore appointed shall within fifteen (15) days after this Act becomes law file a good and sufficient bond, as provided for herein in Section 4; and all acts, contracts, leases, and agreements heretofore made by any existing Board of Park Commissioners pertaining to any of the powers or purposes of this Act are hereby validated.

Exercise of powers by Commissioners Court

Sec. 21. In the event the County Commissioners Court of any Eligible County, as hereinbefore defined, does not pass a resolution authorizing the establishment of such Board of Park Commissioners, or in the event the establishment of any such Board of Park Commissioners be declared by the courts to be invalid, then, in either event, the County Commissioners Court of any such Eligible County is hereby expressly granted the right to exercise, solely if the establishment¹ of no such

Board has been attempted or by ratification of the actions of any such Board prior to the declaration of the invalidity of said Board's establishment, any and all of the powers, acts and authority by this Act conferred, authorized and delegated to said Board of Park Commissioners, provided, nothing contained in this Section shall be construed as authorizing any such Commissioners Court to limit or restrict any such Board of Park Commissioners from exercising any and all of the powers, acts and authority conferred, authorized and delegated to it by the Legislature.

¹ So in enrolled bill. Probably should read "establishment".

Law cumulative; conflict with other laws

Sec. 22. This Act is cumulative of all other laws relating to County Parks, but this Act shall take precedence in the event of conflict.

Partial unconstitutionality

Sec. 23. In case any one or more of the sections or provisions of this Act, or the application of such sections or provisions to any situation, circumstance, or person, shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this Act or the application of such sections or provisions to any other situation, circumstance, or person, and it is intended that this law shall be construed and applied as if such section or provision had not been included herein for any constitutional application. As amended Acts 1951, 52nd Leg., p. 486, ch. 304, § 1.

Emergency. Effective May 28, 1951.

6. CITY PARKS

Art. 6081i. Bonds for parks and recreational facilities validated

Section 1. All bonds heretofore voted and authorized by any city for the purpose of purchasing a park and recreational facilities and the construction and improvement of parking area and streets adjacent thereto, either or both, including all proceedings and the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of statutory power of such city or the governing body thereof to authorize and issue such bonds and notwithstanding that the election may not in all respects have been ordered and held in accordance with statutory provisions; and such bonds when approved by the Attorney General of the State of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered for not less than par and accrued interest, shall be binding, legal, valid, and enforceable obligations of such cities. Provided, however, that this Act shall apply only to such bonds which were authorized at an election or elections wherein a majority of the qualified property taxpaying voters of the city whose property had been duly rendered for taxation voted in favor of the issuance thereof.

Sec. 2. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which has been contested or attacked in any suit or litigation pending at the time that this Act becomes effective. Acts 1951, 52nd Leg., p. 47, ch. 30.

Emergency. Effective March 19, 1951.

TITLE 106—PATRIOTISM AND THE FLAG

Art. 6145. Repealed. Acts 1951, 52nd Leg., p. 308, ch. 185, § 1. Eff. May 16, 1951

Texas Library and Historical Commission, see arts. 5434-5446.

Art. 6145—2. Battleship "Texas" as a permanent memorial; Commission of Control; maintenance and operation

Secretary; meetings; seal; cooperation by Board of Control; repairs; revenues; bonds

Sec. 6. The Commission shall select one of its members as Chairman, and shall select a Secretary who may or may not be a member. The Commission shall meet on the first Thursday of each month and at such other times as the Chairman deems necessary, by giving the other members notice in writing thereof. The Commission shall procure and adopt a seal bearing the words "State of Texas Battleship Texas Commission" encircled by the oak and olive branches. The Board of Control is hereby authorized and directed to cooperate with the Commission in the use of the Board's offices and employees in aiding the Commission to carry out its duties.

The Commission shall have the duty of maintaining and keeping in proper repair the Battleship Texas located in San Jacinto State Park, and shall exact fees or charges from persons for the admission to and inspection of said vessel. Said Commission shall have the power to let concession contracts to the highest bidders for the sale of wares or merchandise to visitors in connection with admission to and inspection of said vessel, and such fees and charges and concession revenues shall be used to pay the operation, repair, and maintenance expenses of said vessel. Said Commission shall also have the power and authority to issue negotiable revenue bonds in the name of 'State of Texas Battleship Texas Commission' for the purpose of repairing or improving said vessel or for the construction of protective improvements, including the construction of a bulkhead or bulkheads to prevent erosion around the slip wherein said vessel is berthed or located. Said bonds shall be secured by and payable solely from the net revenues derived by the hereinabove mentioned fees and charges and concession contracts. The Commission is hereby given complete discretion in fixing the form, conditions, and details of such bonds, and in entering into covenants relating to the use of the net revenues in connection with said bonds. Said bonds shall not in any manner constitute an indebtedness of the State of Texas or of said Commission, but shall be payable solely from the net revenues as above specified, and each of said bonds shall have words to this effect printed on the face thereof. Any interest or principal falling due during the period of the construction of repairs or improvements or protective work and all costs incident to the issuance and sale of the bonds may be paid from the bond proceeds. Said bonds shall mature serially over a period of years not to exceed forty (40), bear interest at a rate not to exceed three (3%) per cent per annum, be signed by the Chairman of the Commission and countersigned by the Secretary; provided that the interest coupons may bear the facsimile signatures of such officers. Said bonds shall be sold for not less than their par value plus accrued interest. Said bonds shall be submitted to the Attorney General for examination, and upon approval, shall be registered by the Comptroller of Public Accounts. After such approval and registration and delivery to the purchaser or purchasers, said bonds

shall be incontestable. Such bonds and the interest thereon shall be exempt from taxation by the State of Texas or by any municipal corporation, county or political subdivision, or taxing district of the State. While said bonds or any of them are outstanding, the Commission shall fix said fees and charges for admission and inspection and the payments under the concession contracts in an amount as will be ample to produce sufficient net revenues (the revenues remaining from the gross revenues after the payment of all proper expenses of operation and maintenance) to pay all requirements of such bonds and to create, establish, and maintain such reserves as may be specified in the proceedings authorizing the issuance of such bonds. The Commission shall have the power and duty to revise the fees and charges so that the net revenues will at all times be sufficient for the purpose described above. Any bonds issued under this Act may be refunded at the same or a lower rate of interest upon the cancellation by the Comptroller of the bonds being refunded at the time of registration of the refunding bonds, the said refunding bonds to be issued under the terms and conditions of this Act relating to the original bonds.

No net revenues derived from admission or inspection fees and charges or from concession contracts shall be paid into the General Revenue Fund when there are outstanding revenue bonds payable from said net revenues; provided that if there are no such outstanding revenue bonds, then on August 31st of each year while there are no such outstanding bonds, the Commission shall cause to be paid into the State Treasury of the State of Texas for the benefit of the General Revenue Fund all net revenues then on hand in excess of Twenty-five Thousand (\$25,000.00) Dollars. As amended Acts 1951, 52nd Leg., p. 157, ch. 96, § 1.

Emergency. Effective April 30, 1951. substitutional, the remaining provisions should
Section 2 of the Act of 1951 provided that nevertheless be valid.
if any portion of the Act was held uncon-

TITLE 108—PENITENTIARIES

Art. 6166d. Meetings

The Texas Prison Board shall hold a regular meeting on the second Monday in January, March, May, July, September and November of each year for the transaction of any and all official business. Special meetings of said Board may be called by the Chairman, and upon the petition of five members special meetings of said Board shall be called. Each member of the Board shall be given notice of special meetings and of the purpose thereof, and unless such notice has been given no official business shall be transacted at any special meeting. Six members of the Board shall constitute a quorum for the transaction of business at any meeting of the Board. As amended Acts 1951, 52nd Leg., p. 773, ch. 424, § 1.

Emergency. Effective June 15, 1951.

Art. 6166m. Remittances to State Treasurer

On Monday of each week, the Manager shall remit to the State Treasurer all moneys belonging to the Prison System received by him during the preceding week. Such funds when received shall be deposited by the State Treasurer upon the warrant of the Comptroller to the credit of the general revenue fund. The Manager shall be furnished with a receipt for such money, and a duplicate of such receipt shall be sent to the Chairman of the Texas Prison Board and another duplicate to the State Auditor. All bills and accounts of said Prison System shall be paid from appropriations made by the Legislature from the general revenue fund of the State, upon sworn accounts and warrants drawn by the State Comptroller on the State Treasurer in the same manner as provided by General Law. Each account shall be approved by the Manager, or in his absence by the Executive Assistant and the Chief Accountant, or in his absence by the Cashier of the Texas Prison System. The Comptroller shall have authority to issue warrants, and the Treasurer to pay same, upon accounts approved by the General Manager or the Executive Assistant and the Chief Accountant or the Cashier of the Texas Prison System. As amended Acts 1951, 52nd Leg., p. 773, ch. 424, § 2.

Emergency. Effective June 15, 1951.

Art. 6166q. Repealed. Acts 1951, 52nd Leg., p. 306, ch. 182, § 1. Eff.
May 16, 1951

Audit of Texas Prison System by State
Auditor, see art. 4413a—21.

Tex.St.Supp. '52—45

TITLE 109—PENSIONS

1. STATE AND COUNTY PENSIONS

Art.

6228c—1. Employees Retirement System and Teachers Retirement System; retirement on joint creditable service [New].

2. CITY PENSIONS

Art.

6243h—2. Boards of Trustees of municipal utilities or property; application of municipal retirement system [New].

6243j. Police officers' pension system in cities of 150,000 to 400,000 population [New].

1. STATE AND COUNTY PENSIONS

Art. 6205. 6267a. To whom granted

Out of the Pension Fund created and maintained under the provisions of Article 6204 as amended, there shall be paid on the first day of each calendar month a pension in the amounts provided for in Article 6221 to every Confederate soldier or sailor whose application has heretofore been approved, and also those who came to Texas prior to January 1, 1928, and whose application shall hereafter be approved, and to their widows whose applications have heretofore been approved and also those who have been bona fide residents of this State since January 1, 1928, and whose application shall hereafter be approved and who were married to such soldiers or sailors prior to January 1, 1922, 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, 1885, shall be entitled to a widow's pension; 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 1951, 52nd Leg., p. 232, ch. 138, § 1.

Emergency. Effective May 4, 1951.

Amendment by Acts 1951, 52nd Leg., p. 328, ch. 199, § 1, se art. 6205, post.

Out of the Pension Fund created and maintained under the provisions of Article 6204 as amended, there shall be paid on the first day of each calendar month a pension in the amounts provided for in Article 6221 to every Confederate soldier or sailor whose application has heretofore

been approved, and also those who came to Texas prior to January 1, 1928, and whose application shall hereafter be approved, and to their widows whose applications have heretofore been approved and also those who have been bona fide residents of this State since January 1, 1928, and whose application shall hereafter be approved and who were married to such soldiers or sailors prior to January 1, 1922, 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 come 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 of a Confederate Veteran born since January 1, 1886, shall be entitled to a widow's pension; 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 1951, 52nd Leg., p. 328, ch. 199, § 1.

Amendment by Acts 1951, 52nd Leg., p. 232, ch. 138, § 1, see art. 6205, ante.

Emergency. Effective May 17, 1951.

Art 6228a. Retirement system for State employees

Definitions

Section 1

P. "Average Prior Service Compensation" shall mean the average annual compensation of an employee during the ten (10) years immediately preceding the enactment of this law; or if he has less than ten (10) years of such service, then his average compensation shall be computed for his total years of such prior service, within such ten-year period; or if he had no service during such ten-year period, his Average Prior Service Compensation shall be the annual compensation paid such person for the service as an employee during the year nearest preceding September 1, 1937, in which the employee rendered service; but in computing the average, no compensation for any one year shall be more than Three Thousand Six Hundred (\$3,600.00) Dollars. As amended Acts 1951, 52nd Leg., p. 392, ch. 250, § 1.

R. "Prior Service Annuity" shall mean payment each year for life of three (3%) per centum of a member's average prior service compensation (as defined by this Act) multiplied by the number of years of Texas service certified in his Prior Service Certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36) years, and in computing his average prior service compensation, the maximum prior service salary in any one year shall be Three Thousand,

Six Hundred (\$3,600.00) Dollars. All prior service annuities shall be payable in equal monthly installments. As amended Acts 1951, 52nd Leg., p. 257, ch. 152, § 3.

Membership

Sec. 3.

E. Any one who has been employed in the State of Texas in accordance with the terms of this Act, but who is not employed at the time the Act became effective, shall, if he becomes an employee and continues as such for a period of five (5) consecutive years, be entitled to receive credit and resulting benefits for prior service as provided for in this Act. As amended Acts 1951, 52nd Leg., p. 392, ch. 250, § 2.

Creditable Service

Sec. 4. A. Under such rules and regulations as the State Board of Trustees shall adopt, each person who was employed, as defined in this Act, at any time prior to the establishment of the system and who becomes an employee and continues as such for a period of five (5) consecutive years, or who was a member at the beginning of the system, shall file a detailed statement of all Texas service, as an employee, rendered by him prior to the date of the establishment of the Retirement System, for which he claimed credit. As amended Acts 1951, 52nd Leg., p. 392, ch. 250, § 3.

Emergency. Effective May 18, 1951.

Benefits

Sec. 5.

B. Allowance for Service Retirement.

2. If he has a prior service certificate in full force and effect, the prior service annuity shall be three (3%) per centum of his average prior service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior service certificate; except that for the first sixty (60) days from and after the passage of this Act, the prior service annuity shall be computed on the basis of two (2%) per centum of his average prior service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior service certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36) years and that in computing his average prior service compensation, the maximum prior service salary shall be Three Thousand, Six Hundred (\$3,600.00) Dollars for any one year. In computing the average prior service compensation for employees who served in the armed forces on leave of absence from the State and subsequently became members of the System, that time spent in the armed forces shall be counted as part of the ten (10) years immediately preceding the enactment of the law and the basis for compensation shall be the same that was earned at commencement of his leave of absence from the State. Provided that the State Board of Trustees shall have an actuarial and statistical study made at least once every five (5) years showing annual trends. It is expressly provided that monthly payments, payable sixty (60) days or more after the passage of this Act, or which became effective within sixty (60) days from and after the passage of this Act, shall be computed on the same basis and in the same manner as monthly payments under prior service annuities for members whose retirement is effective later than sixty (60) days after the effective date of this amending Act. Upon the recommendation of the actuary, the State Board of Trustees shall have the power to reduce proportionately all payments for prior service annuities at any time and for such period of time as is necessary so that the payment to beneficiaries for prior service annuities in any biennium shall not

exceed the available assets for payments of prior service annuities in such biennium. As amended Acts 1951, 52nd Leg., p. 257, ch. 152, § 4.

I. Any member of the State Employees Retirement System who has accepted service retirement shall be ineligible and disqualified to resume employment in the State's employ, provided, however, that during the present world conflict and national emergency declared by Presidential Proclamation No. 2914, dated December 16, 1950, and for a period of twelve (12) months thereafter a retired member who retired on or prior to January 1, 1951, and only such retired member, shall not be ineligible and disqualified as above stated but may be employed as a State employee under the terms of this Act. During the said time 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 when said member leaves said employment permanently. During the time that said retired State employee member is employed as above specified and limited, no retirement deductions shall be made from his salary and the retirement benefits that are paid to said retiring 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 State employment as above outlined, during the time of such employment, 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 State employment, 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 State employment as above specified, the time so spent in State employment 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 State employment; provided further, that any retired member who accepts employment as a State employee, except in the present world conflict and national emergency and for twelve (12) months thereafter, as above specified, shall forfeit all rights as a retired State employee 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 State employment shall be deemed to have accepted the same. Added Acts 1951, 52nd Leg., p. 865, ch. 488, § 1.

Emergency. Effective June 21, 1951.

Group insurance premiums

Sec. 9a. That any retired State employee who has been a member of a group insurance plan prior to retirement and who wishes to continue same after retirement may have any premiums due by him to be paid any group insurance deducted from his retirement allowances by specifically authorizing such deduction and payment in writing addressed to the Executive Secretary of the Employees Retirement System, provided, however, that such retired employee may thereafter withdraw such authorization by a thirty (30) day written notice addressed to the Executive Secretary of such Retirement System. Added Acts 1951, 52nd Leg., p. 465, ch. 295, § 1.

Emergency. Effective May 21, 1951.

Art. 6228b. Retirement of justices, judges and commissioners of appellate and district courts

Judges of abolished courts; continuity of service

Sec. 4. Any person who was, or but for the abolishment of such Court before the expiration of his term of office would have been, serving as a Judge of a Court of this State at the time the Retirement Amendment, House Joint Resolution No. 39, was adopted November 2, 1948, and who had served on one (1) or more of the Courts of this State at least ten (10) years, continuously or otherwise, and had attained the age of sixty-five (65) years at the time of the adoption of the Retirement Amendment, shall be deemed to come within the provisions of this law and be entitled to receive retirement pay under the same terms and limitations provided in Section 2 of this Act, regardless of whether he is now serving on a Court of this State. Any person who has served on one (1) or more Courts of this State as defined herein for twenty-four (24) years or more at any time, continuously or otherwise, provided that his last service prior to the date of retirement shall have been continuous for a period of not less than ten (10) years, shall likewise be entitled to retirement pay under the provisions of this Act. As amended Acts 1951, 52nd Leg., p. 334, ch. 205, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 6228c—1. Employees Retirement System and Teachers Retirement System; retirement on joint creditable service

Any person who is a member of either the Teachers Retirement System of Texas or the Employees Retirement System of Texas shall be eligible to retire as such member of either system upon accumulation of twenty (20) years of joint creditable service as between two said systems upon reaching the age of sixty (60) years.

It is specifically declared to be the intention of the Legislature that these two systems shall cooperate fully each with the other in carrying out the purposes of this section. It is further specifically declared to be the intention of the Legislature to pass this section to carry out the will and intention of the people to the full extent in the passage of this Act, and this provision shall be mandatory on both boards and the administrative officers. Acts 1951, 52nd Leg., p. 257, ch. 152, § 5.

Emergency. Effective May 10, 1951.

Art. 6228d. Death before retirement under county retirement systems

Section 1. Any member of a retirement, disability and death compensation fund established by any county of this State pursuant to Section 62 of Article XVI of the Constitution of Texas, by written designation filed in such form and with such officer or employee as the Commissioners Court shall prescribe, may provide that the contributions made by such member to such fund, together with interest (if any) assigned to such contributions under such plan, shall be paid, in the event of the death of such member before retirement with an allowance of benefits from said fund, to such beneficiary as may be named by him in such written designation. The member may change the beneficiary so designated, or revoke a designation previously made by filing with the Commissioners Court, or such officer or employee as may be designated by such Court, a notice in writing in such form as the Court may prescribe, of such change or revocation.

In the event the member dies before such retirement, without so designating a beneficiary to receive his accumulated contributions and interest if any, or in the event the beneficiary so designated predeceases the member, such sums shall be paid to his estate. Payment of the accumulated contributions and interest of a member to the executor or administrator of his estate, or to his designated beneficiary, shall discharge the fund and its administrative officers from any other or further liability therefor.

Sec. 2. The provisions of this Act shall apply to all such retirement, disability and death compensation funds, whether such funds were established prior to the passage of this Act or subsequent to the passage of this Act. As amended Acts 1951, 52nd Leg., p. 230, ch. 136.

Emergency. Effective May 4, 1951.
The title of the Act of 1951 recited that it was an Act to amend Acts 1949, ch. 588. The body of the Act contained no amending provisions but its provisions were evi-

dently intended to replace the provisions of the Act of 1949.

Section 3 repealed conflicting laws or parts of laws.

2. CITY PENSIONS

Art. 6243a. Firemen, Policemen and Fire Alarm Operators Pension System; cities and towns of 432,000 or more inhabitants

Board of Trustees

Section 1. In all incorporated cities and towns which operate a separate Firemen, Policemen and Fire Alarm Operators Pension System containing four hundred thirty-two thousand (432,000) or more inhabitants, according to the last preceding Federal Census, having a fully or partially paid Fire and Police Department, there shall be and there is hereby created a Board to consist of seven (7) members, as follows: the Mayor; two (2) Aldermen, Councilmen or Commissioners, each to serve on this Board for the term of office to which they were elected; and two (2) active firemen who shall be selected by the majority vote of the members of the Fire Department, which two (2) members shall be appointed by the governing body of the said city, one (1) for a term of two (2) years and the other for a term of four (4) years; and two (2) active policemen to be selected by the majority vote of the members of the Police Department, which two (2) members are also to be appointed by the governing body of the said city, one (1) for a term of two (2) years and the other for a term of four (4) years; all said members from the Fire and Police Department shall be elected by the contributors to the fund, as herein provided, and shall serve until their successors are elected and qualified, and their successors shall be appointed to serve for a term of four (4) years. The said appointees and their successors shall constitute the Board of Trustees of the Firemen, Policemen and Fire Alarm Operators Pension Fund, to provide for the disbursement of same, and to designate the beneficiaries thereof. The Board shall be known as the Board of Firemen, Policemen and Fire Alarm Operators Pension Fund Trustees of _____, Texas. A Board, as herein provided, shall be selected upon the enactment of this Act and shall hold its office until the next general election in such city for municipal officers, at which time a permanent Board shall be selected, as herein provided. The said Board shall organize by choosing one (1) member as Chairman, and by appointing a Secretary, which Board shall have charge of and administer said fund and shall order payments therefrom in pursuance of the provisions of this Act. It shall report annually to the governing body of such town or city, the condition of the said fund, and the receipts and disbursements on

account of same, with a complete list of the beneficiaries of said fund, and the amounts paid them. The Board shall have the power and authority, by a majority vote, to reduce the percentages stipulated in any section or subsection of this Act which deals with disabilities or with awards granted to beneficiaries. The reduction shall be based upon the degrees of disability and circumstances surrounding the case. The Board shall have the complete authority and power to administer all of the provisions of this Act and any implied powers under this Act. As amended Acts 1951, 52nd Leg., p. 292, ch. 173, § 1:

Effective 90 days after June 8, 1951, date of adjournment.

Art. 6243f. Pensions for Policemen, Firemen and Fire Alarm Operators in cities having population of three hundred and fifty thousand (350,000) to four hundred and thirty thousand (430,000)

Board of Trustees

Section 1. In all incorporated cities containing more than three hundred and fifty thousand (350,000) inhabitants and less than four hundred and thirty thousand (430,000) inhabitants according to the last preceding Federal Census, and all future Federal Census, having a fully paid Fire and Police Department, there is created hereby a Board to consist of seven (7) members, as follows: The Mayor, two (2) Aldermen, Councilmen or Commissioners, each to serve on this Board for the term of office to which they were elected, two (2) active Firemen below the grade of District Chief, to be selected by the majority vote of the members of the Fire Department by secret ballot, which two (2) members shall be appointed by the governing body of the said city, one (1) for a term of two (2) years and the other for a term of four (4) years, and two (2) active Policemen, below the grade of Captain, to be selected by the majority vote of the members of the Police Department, by secret ballot, which two (2) members shall be appointed by the governing body of the said city, one (1) for a term of two (2) years and the other for a term of four (4) years. All members from the Fire Department and Police Department shall be elected by the contributors to the Fund, and shall serve until their successors are elected and qualified, and their successors shall each be elected and appointed to serve for a term of four (4) years. The appointees and their successors shall constitute the Board of Trustees of the Firemen, Policemen and Fire Alarm Operators' Pension Fund, to provide for the disbursement of same, and to designate the beneficiaries thereof. The Board shall be known as the Board of Firemen, Policemen, and Fire Alarm Operators' Pension Fund Trustees of _____, Texas. As amended Acts 1951, 52nd Leg., p. 86, ch. 56, § 1.

Who may share in fund

Sec. 7. (a) All persons duly appointed and enrolled in the Fire Department, Police Department, or Fire Alarm Operators' Department of any city having the number of inhabitants provided for in Section 1, as amended, and who have served the probationary period, if any, shall automatically become members of the Pension Fund of such city upon expiration of ninety (90) days from date such city comes within the provisions of this Act. In all instances where such person is already a member of such Pension Fund, he shall retain and be entitled to all rights and privileges due him by virtue of having been such member, and such persons who are affected by this Act, who were not previously members of the Pension Fund, shall at their option, which shall be so

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

exercised by them in writing, to the Board of Trustees, within ninety (90) days from the effective date of this Act, either participate in said Pension Fund, as provided in this Act, as a new member, thereby being entitled only to rights beginning as of effective date of this Act, or take advantage of the rights provided for in this Act by establishing their right to prior-service credit, then within a period of six (6) months from the date of such election, in order to be entitled to the benefits from the fund for himself and his beneficiaries as hereinafter provided, such person must pay into such Pension Fund a sum of money equal to the amount of salary deductions he would have paid had he joined said Pension Fund on the date he became eligible to participate in the benefits of said Pension Fund.

(b) Any person not a member when this Act becomes effective, who thereafter becomes a Fireman, a Policeman or a Fire Alarm Operator of such city, having served the probationary period, if any, shall automatically, after six (6) months of service, become a member of the Pension System as a condition of his employment.

(c) Members of this Pension Fund who are engaged in active military service shall not be required to make the monthly payments into the Fund, provided for in this Act, nor shall they lose any rights or benefits provided for in the Act by virtue of such military service.

(d) Written notice by registered letter shall be given each and every person eligible for membership in the Pension System by such city within sixty (60) days from the date such city comes under this Act, informing him of the provisions of this section and its subdivisions. As amended Acts 1951, 52nd Leg., p. 56, ch. 86, § 2.

Retirement Pension

Sec. 8. Whenever any member of said Departments shall have contributed a portion of his salary as provided by this Act and shall have served for a period of twenty (20) years, twenty-five (25) years or thirty (30) years in either of said Departments, the Board of Trustees shall issue such member a Certificate of Retirement, which Certificate shall state the period of contribution and the time served in the Department and shall entitle the holder, on retirement, upon twenty (20) years of service to two-fifths ($\frac{2}{5}$) of the base pay then received by him; upon twenty-five (25) years of service to one-half ($\frac{1}{2}$) of the base pay then received by him and upon thirty (30) years of service to three-fifths ($\frac{3}{5}$) of the base pay then received by him. No member shall ever receive any award from this Fund for retirement until he has served at least twenty (20) years in either or all of the Departments. In determining the number of years of service in a Department the member shall be given full credit for such time, or periods of time, said member was actively engaged in the military service. As amended Acts 1951, 52nd Leg., p. 86, ch. 56, § 3.

Retirement when disabled

Sec. 10. When any member of the Fire Department, Police Department and Fire Alarm Operators' Department of the city and who is contributing to said Fund, as herein provided, shall become so permanently disabled through injury or disease so as to incapacitate him from the performance of his duties, and shall make written application subject to medical examination for such injuries or disease, he shall be retired from the service and be entitled to receive from the said Fund one-half ($\frac{1}{2}$) of the base pay of a private per month, which base pay of a private shall be computed on the basis of the current payroll. In no case shall a disability claim be acknowledged or award made here-

under until disability has been proved to be continuous and wholly incapacitating for a period of not less than ninety (90) days. As amended Acts 1951, 52nd Leg., p. 86, ch. 56, § 4.

Death benefits to widow and children

Sec. 11. In case of the death before or after retirement of any member of the Fire, Police and Fire Alarm Operators' Departments of any city, who at the time of his death, or retirement was a contributor to the said Fund, leaving a widow, child or children under seventeen (17) years of age, the widow and such child or children shall be entitled to receive from the said Fund an amount not to exceed one-half ($\frac{1}{2}$) of the current base pay of a private per month; one-half ($\frac{1}{2}$) of the widow's amount in the aggregate shall go to the children under seventeen (17) years of age and one-half ($\frac{1}{2}$) for the widow. No child resulting from any marriage subsequent to the date of the retirement of said member shall be entitled to a pension under this Act. In case there are no children, the widow shall receive one-half ($\frac{1}{2}$) of the current base pay of a private per month. The one-fourth ($\frac{1}{4}$) award to the children shall be paid by the Board to the legal guardian of the children. In no instance shall the amount received by the widow, child or children, exceed a pension allowance of one-half ($\frac{1}{2}$) of the current base pay of a private per month. As amended Acts 1951, 52nd Leg., p. 86, ch. 56, § 5.

Emergency. Effective April 16, 1951.

Sections 6-9 of the amendatory Act of 1951 read as follows:

"Sec. 6. The provisions of this Act, which are amendments to certain sections of Article 6243f of Chapter 2, Title 109, of the Revised Civil Statutes of Texas, as adopted in 1941, Forty-seventh Legislature, page 134, Chapter 105, are intended only to amend those sections specifically covered and in the manner herein provided.

"Sec. 7. This Act is cumulative of and in addition to all of the sections and provisions now contained in Article 6243f of Chapter 2, Title 109 of the Revised Civil Statutes of Texas, as adopted in 1941,

Forty-seventh Legislature, Page 134, Chapter 105.

"Sec. 8. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

"Sec. 9. If any section, subsection or clause of this Act is for any reason, held to be unconstitutional or invalid for any other reason, such decision shall not affect the validity of any of the remaining portions of this Act or the laws to which it relates, and it is hereby declared that this Act would nevertheless have been passed without such section, subsection, or clause so declared unconstitutional or invalid."

Art. 6243g. Pension system in cities over 384,000

Persons eligible in cities hereafter coming under this Act

Sec. 3A. (a) Any person who is an employee of any city not now affected by this Act but which city shall hereafter, by population increase, come under the provisions hereof (including departmental physicians, surgeons and medical officers with ten (10) years service as provided in paragraph (e) of Section 3 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 date such city comes under this Act, 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 date such city comes under 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 date such city comes under 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 and immediately at the beginning of his first full pay period, 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 unless such elected officer shall, prior to his election, have been an employee of such city and member of its Pension System, in which case the applicable provisions of the second paragraph of subsection (f) of paragraph 3 hereof shall govern; (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. As amended Acts 1951, 52nd Leg., p. 378, ch. 242, § 1(A).

Retirement on pension

Sec. 12. 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 fifty-five (55) years of age shall be entitled to a retirement Pension of One Hundred Dollars (\$100) 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 fifty-five (55) 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. Upon the date of any member's retirement, if he shall have served in excess of twenty-eight (28) years, he shall, in addition to the said sum of One Hundred Dollars (\$100), receive an additional sum of Two Dollars and Fifty Cents (\$2.50) per month for each additional year served in excess of twenty-eight (28) years, provided that the total Pension payable in any case shall never exceed One Hundred and Fifteen Dollars (\$115), and provided such member shall continue his monthly payments into the Fund during such additional period of service. If any member of such System is retired for any reason prior to completing twenty-eight (28) years service, and such member has completed at least ten (10) years service, he shall receive a monthly pension of less than One Hundred Dollars (\$100) calculated on the pro-rata basis that his total service bears to the full term of twenty-eight (28) years. Provided, that where any member of any such System has completed ten (10) years service with such city and shall thereafter attain sixty (60) years of age, he may, at his option, be retired and upon retirement shall receive a monthly Pension which shall be calculated on the pro-rata basis that his term of service upon reaching sixty (60) years of age bears to the full term of twenty-eight (28) years. 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 governing body of the city upon the recommendation of the chief administrative officer of such city, which in no event shall be beyond the employee's reaching seventy (70) years of age. No member shall be required to make any payments into the Pension Fund after he has been issued the aforesaid certificate en-

titling him to retirement Pension; however, if he continues to work for the city he may continue his monthly payment into the Pension Fund in order to receive the Two Dollars and Fifty Cents (\$2.50) monthly additional bonus for each year's additional service as above provided. As amended Acts 1951; 52nd Leg., p. 378, ch. 242, § 1(B).

Death of member

Sec. 13A. If any member of the Pension System, as herein defined, who has been retired on Pension because of length of service or disability, shall, after December 31, 1951, die from any cause whatsoever, or if while in the service, any member shall die from any cause growing out of and/or in consequence of the performance of his duty, or shall die from any cause whatsoever after he has become entitled to Pension and shall leave a surviving widow and/or a child or children under the age of eighteen (18) years, said Board shall order paid a monthly allowance as follows:

(a) To the widow, so long as she remains a widow and provided she shall have married such member prior to his retirement, a sum equal to one-half ($\frac{1}{2}$) of the retirement benefits that the deceased would be, or had been entitled to, at the time of his retirement or death.

(b) To the guardian of each child the sum of Six Dollars (\$6) per month until such child reaches the age of eighteen (18) years.

(c) In the event the widow dies after being entitled to her allowance as provided, or in the event there be no widow to receive such allowance, the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twelve Dollars (\$12) per month for each dependent minor child; provided, however, that the total allowance would be paid all beneficiaries or dependents, as herein provided, shall not exceed the monthly pension to be paid the pensioner had he continued to live or be retired on pension at the date of his death. Allowances or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries. By the term "guardian" as used herein shall be meant the surviving widow, any guardian appointed by law, or the person standing in loco parentis to such dependent minor child responsible for his or her care and upbringing. Added Acts 1951, 52nd Leg., p. 378, ch. 242, § 2.

Termination of employment; 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 the sum of Twenty-five Dollars (\$25), which sum of Twenty-five Dollars (\$25) shall be withheld from such refund to compensate the System for its accounting expenses during the period of coverage of such member, and if he shall have paid in less than Twenty-five Dollars (\$25), he shall not be entitled to any reimbursement; provided, that if such member has completed twenty-eight (28) years, or more, of service with the city prior to becoming fifty-five (55) 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 fifty-five (55) 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.

It is contemplated that said sum shall be paid such departing member 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 residing in said city, 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 per cent (3%) per annum from date of such withdrawal. As amended Acts 1951, 52nd Leg., p. 378, ch. 242, § 1(C).

Section 3 of the amendatory Act of 1951, provided that this Act shall take effect and be in force at 12:01 a. m., January 1, 1952.

Art. 6243h—2. Boards of Trustees of municipal utilities or property; application of municipal retirement system

Section 1. No pension or retirement benefit plan or system for employees of any Texas municipality, whether provided for by general or special law, city charter, or city ordinance, shall become or be made applicable to employees of any Board of Trustees created or appointed in pursuance of Article 1115, Revised Statutes, or any similar law providing for a Board of Trustees to administer municipal utilities or properties, unless and until such pension or retirement benefit plan or system has been approved and adopted by the Board of Trustees employing such employees and such Board of Trustees has made provision for the payment out of the revenues of the utility systems or its properties of the necessary payments to be made as the employer's contribution to such pension or retirement benefit plan or system.

Sec. 2. Any plan or system providing for pensions or retirement benefits which may have heretofore been adopted or may hereafter be adopted by any such Board of Trustees may be applied to the employees of such Board of Trustees independently of and to the exclusion of any plan or system applicable to or affecting other employees of the municipality. Acts 1951, 52nd Leg., p. 24, ch. 17.

Emergency. Effective March 10, 1951.
Communists barred from nonelective position, job or office, see Art. 6889—11.

Art. 6243i. Repealed. Acts 1951, 52nd Leg., p. 397, ch. 254, § 27, eff. May 17, 1951

Art. 6243j. Police officers' pension system in cities of 150,000 to 400,000 population

Creation of system

Section 1. There is hereby created in this State a Police Officers' Pension System in all cities having a population of not less than one

hundred and fifty thousand (150,000) inhabitants, nor more than four hundred thousand (400,000) inhabitants, according to the last preceding or any future Federal Census; provided, however, that once such pension system becomes operative in any city, any right or privilege accruing to any member thereunder shall be a vested right and the same shall not be denied or abridged thereafter through any change in population of any such city taking such city out of the population bracket as herein prescribed, and said pension system shall continue to operate and function regardless of whether or not any future population exceeds or falls below said population bracket.

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, allowance, disability and pension system for employees of any Police Department coming within the provisions of this Act.

(b) "Member" means any and all employees in the Police Department who are engaged in law enforcement duties except special officers, part-time officers, janitors, car washers, cooks, and secretaries.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under the Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by a person employed in the Police Department.

(e) "Pension" means payments for life to the Police Department member out of the Pension Fund provided for herein 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 in the Police Department, whether caused by death, discharge or resignation, or transfer to any other department of the city.

(g) The use of the masculine gender includes the feminine gender.

(h) "Prior-service credit" means credit for service rendered a city by an employee in the Police Department prior to his becoming a member of the Pension System.

(i) "Performance of duty" means the duties usually performed by a policeman during his regular working hours and at other times when he is called upon to perform emergency duties within the regular scope of his employment.

Membership

Sec. 3. (a) Any person except as herein provided, who is an employee of such city in the Police Department on the effective date hereof, shall be eligible for membership in the Pension System, 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 his written election not to become a member, which shall constitute a waiver of all present and prospective benefits which otherwise would inure to him by participation in the System. But any member of the Police Department of such city, whose membership in the Pension System is contingent upon 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.

Written notice shall be given each and every member of the Police Department eligible for membership in the Pension System by the Secretary of the Pension Board 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 in the Police Department after the passage of this Act shall automatically become a member of the Pension System as a condition of his employment, and he will be required to sign a letter making application for Pension benefits.

(c) Part-time, seasonal, or other temporary employees shall not become, nor be eligible as, members of the Pension System.

Pension Board

Sec. 4. (a) There is hereby created in any city within this Act a Pension Board for the Police Officers' Pension System. Said Board is hereby vested with the general administration, management and control of the Pension System herein established for said city.

(b) The Board shall be composed of seven (7) members, as follows:

(1) The Mayor, to serve for the term of office to which he was elected;

(2) The Chief of Police, to serve until his successor is qualified;

(3) The City Treasurer, to serve until his successor is qualified;

(4) Three (3) active policemen who shall be selected by a majority vote of the members of the Pension System; said policemen members shall serve for a period of two (2) years and until their successors are elected and qualified. Vacancies occurring by reason of expiration of term of office, death, resignation or removal shall be filled by an election by a majority vote of the members of said Pension System;

(5) One (1) legally qualified taxpaying voter of the city, who has been a resident thereof for the preceding three (3) years; such member, being neither officer nor employee of the city, shall be chosen by the other six (6) members of the Board, and he shall serve for a period of two (2) years and until his successor is selected and qualified.

Said Board, as herein provided, shall be selected and organized upon the passage of this Act and shall hold its office until the next general election in such city for municipal officers, at which time a permanent Board shall be selected, as herein provided. The said Board shall organize by choosing one (1) member as Chairman; one (1) member as Vice-Chairman; and one (1) member as Secretary. Beginning with the first day of January, 1952, and annually thereafter, the Board shall elect its Chairman, Vice-Chairman and Secretary for the ensuing year.

(c) Each member of the Pension Board within ten (10) days after his appointment and election shall take an oath of office that 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) Pursuant to the powers granted under the charter of such city, the mayor shall appoint one or more employees whose positions and salaries shall be fixed by the governing body of such city and who, acting under direction of the Pension Board, 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) Five (5) members of the Board shall constitute a quorum, and a majority vote of those members present shall be necessary for a decision of said Board.

(f) No moneys shall be paid out of the Pension System Fund except by warrant, check, or draft signed by the Treasurer and countersigned

by either the Chairman or Secretary, upon an order by said Pension Board duly entered in the minutes.

(g) The Pension Board shall determine the prior service to be credited to each present employee of the Police Department 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 (1) 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 be final and conclusive for retirement purposes as to such service.

Treasurer

Sec. 5. The City Treasurer is hereby designated as the Treasurer of said Pension System Fund for said city Police Officers' Pension System, and his official bond to said city shall operate to cover his position as Treasurer of such Pension System 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 Pension System shall be paid over to the said Treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

Payments 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 System shall pay monthly into the Pension System Fund not less than four per cent (4%) nor more than seven per cent (7%) of his statutory minimum and longevity pay. Subject to this limitation, the Pension Board shall set the amount that each member shall pay into said Pension System Fund. Said payments into the Pension System Fund shall be effected by the city deducting the amount to be contributed by each member of said Pension System from his wages earned. Said deduction shall be paid into the Pension System Fund by the city.

Payments into fund by city

Sec. 7. In addition to the payments in the next preceding Section such city shall pay monthly into such Pension System 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.

Depletion of fund; reduction of benefits

Sec. 8. In the event the Pension System 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 reduction of benefits shall continue only for such time as such depleted condition continues to exist, and after such time of depletion has ceased to exist and the Pension Board finds said Pension System Fund is in condition to warrant, it shall thereafter restore the benefits and resume payment of all pensioners and beneficiaries as though such preceding reductions had not occurred.

Investment of surplus

Sec. 9. Whenever in the opinion of the said Pension Board there is on hand in said Pension System 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 or any city or any county.

Transfer of pro rata share of existing fund

Sec. 10. Immediately upon this Act becoming a law, there shall be transferred to the Police Officers' Pension System the prorata share of any pension fund heretofore existing to which police officers have contributed, including the prorata part of the fund paid by the city and all accumulated interest on the money which both the policemen and the city have heretofore contributed to the fund. It shall be the duty of the city official or officials responsible for said existing fund to make such transfer immediately.

Retirement pension

Sec. 11. From and after the passage of this Act, any member of such Pension System who has been in the service of the city Police Department for a period of twenty-five (25) years shall receive from the Pension Board a pension certificate. Any person who holds a pension certificate and who has attained fifty-five (55) years of age shall be entitled to a monthly retirement pension equal to one half ($\frac{1}{2}$) of his statutory minimum pay plus one half ($\frac{1}{2}$) of his longevity pay, which he received when such certificate was awarded, each month for the rest of his life upon his retirement from the services of said city Police Department; provided, however, said monthly retirement pension shall not exceed the sum of One Hundred and Twenty-five Dollars (\$125). However, when a member has served twenty-five (25) years or more in the Police Department and has attained the age of fifty-five (55) years, if he desires and if the physicians employed by the Pension Board agree that said member is physically fit to continue his active duties in the Police Department, he may continue such duties until he is not over sixty-five (65) years of age, and when he retires he will receive in addition to his monthly retirement pension set out above, a service bonus of One Dollar (\$1) per month for each year of service over and above the amount per month payable if he had retired when he attained the age of fifty-five (55) years. It shall be compulsory for any member to retire from service upon attaining sixty-five (65) years of age; failure of any member of the Pension System to comply with this provision shall deprive the member or his dependents of any of the benefits provided for herein. If at the time of retirement such member has completed less than twenty-five (25) years of service, but more than twenty (20) years of service, his retirement pension shall be prorated. For example, if the employee has completed only twenty (20) years of service, his monthly pension would be four-fifths ($\frac{4}{5}$) of one half ($\frac{1}{2}$) his statutory minimum pay and one half ($\frac{1}{2}$) his longevity pay. No member shall be required to make any payments into the Pension System Fund after he has been issued a pension certificate and who has retired from active service in the Police Department. However, if he continues to work for the city Police Department after receiving a pension certificate, he shall continue his monthly payments into the Pension System Fund until he retires.

Pensions to widow and dependents

Sec. 12. If any member of the Police Department, who has been retired on allowance because of length of service or disability, shall thereafter die from any cause whatsoever or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate, or if while in service any member shall die from any cause growing out of or in consequence of the performance of his duty, and shall leave surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent, said Board shall order paid a monthly allowance as follows: (a) To the widow so long as she remains a widow, sixty per cent (60%) of the pension per month that said member would have received if living and had retired with twenty-five (25) years of service, provided she shall have married such member prior to his retirement; (b) to the guardian of each child the sum of Six Dollars (\$6) per month until such child reaches the age of eighteen (18) years or marries; (c) to the dependent parent, only in case no widow is entitled to allowance, the sum the widow would have received to be paid to but one parent and such parent to be determined by the Pension Board, and (d) in the event the widow dies after being entitled to her allowance as herein provided, or in the event there be no widow or dependent parent to receive such allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twelve Dollars (\$12) per month for each said dependent minor child; and provided that such minor child under eighteen (18) years of age is unmarried. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries.

If a member of this Pension System is killed while performing his official duties, or dies from injuries received while performing such duties, the same benefits payable under the provisions of this Act to Pension System members who hold a pension certificate and have attained fifty-five (55) years of age, shall be paid to the persons designated in this Section.

Death from natural causes or causes not covered

Sec. 13. If a member of this Pension System dies from natural causes or from any cause not covered under the provisions of this Act, the Pension Board shall pay to his estate all of the exact amount of money he has heretofore paid into the Pension System Fund in lieu of any other benefit provided for herein.

Retirement for disability

Sec. 14. Any member of this Pension System who becomes incapacitated for performance of his duty by reason of any bodily injury received in, or illness caused by the performance of his duty, shall be retired upon presentation to the Pension Board of proof of the disability, and shall receive a retirement allowance equal to the percentage of his disability; for example, if he is fifty per cent (50%) incapacitated, he shall receive fifty per cent (50%) of the amount he would receive if retired after completion of twenty-five (25) years service per month during the remainder of his life or so long as he remains incapacitated. Provided, however, that if, at that time, he is qualified as to age and service for retirement, he shall receive the full amount of pension per month, or in the event he is past fifty-five (55) years of age and has more service than the minimum of twenty-five (25) years, and becomes incapacitated he shall receive the full amount of pension per month plus One Dollar (\$1) for each additional year as his service bonus. When any member has been retired for

permanent, total or partial 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, 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 in the Police Department, 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 payment stopped. No person shall be retired either for total or partial disability unless there shall be filed with the Pension Board an application for pension benefit, at which time the Pension Board shall have him examined by no fewer than three (3) physicians, to be chosen by the Pension Board and to make their report to the Pension Board. If a policeman is hurt while working on a regular shift or tour of duty, or if he is at home or some other place and an emergency arises wherein he has to perform the official duties of a policeman and is injured, he shall receive the benefits of this Act. In all cases where a policeman seeks benefits under this Section, it shall be the duty of the Pension Board to determine if the policeman did receive his injuries in the performance of his duty.

Computation of period of service

Sec. 15. In computing the twenty-five (25) years of service required for a retirement pension, twenty-five (25) years of continuous service shall be required; provided, however, that in case of interruption of less than two (2) years, credit shall be given for previous service if out of service more than two (2) years; no service prior to said interruption shall be counted, other than provided in Section 21.

Leaving employment before becoming eligible

Sec. 16. When any member of such Pension System shall leave the employment of such Police Department except as specifically provided for herein, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall cease to be a member of such Pension System. When a member has left the service of the city Police Department 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 Police Department 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 or physicians in the city, satisfactory to the Pension Board. Prior service of such member with such city Police Department shall not be counted toward his retirement pension unless such member returns to the service within two (2) years from his separation therefrom, and also shall, within six (6) months after his re-employment by the city in the Police Department, make a written application to the Pension Board for reinstatement in the Pension System.

Transfers from other city departments

Sec. 17. No prior credit shall be allowed for service to any person who may hereafter transfer from some other department in the city to the Police Department. Policemen now serving who have heretofore transferred from some other city department may be given credit for such prior service by the Pension Board. The prior-service credits shall all be granted within sixty (60) days after this Act becomes law. For example,

if one is transferred from some other department of the city to the city Police Department, sixty-one (61) days after this Act becomes law, such person's service will be computed only from the day he enters the city Police Department.

Gifts and donations

Sec. 18. The Police Officers' Pension System may accept gifts and donations and such gifts or donations shall be added to the Pension Fund for the use of such System.

Legal matters

Sec. 19. 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, employ an attorney, or attorneys, to handle its legal matters and shall pay reasonable compensation therefor out of said Pension System Fund.

Exemption from legal process; assignment or transfer

Sec. 20. No portion of any such Pension System 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 upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, and no process or proceedings whatsoever, shall issue out of or by any court of this State for the payment of satisfaction, in whole or in part, out of said Pension System Fund, of any debt, damage, claim, demand, or judgment against any such members, pensioners, dependents, or any person whomsoever, nor shall such Pension System Fund or any part thereof, or any claim thereto, be directly or indirectly assigned or transferred. Any attempt to transfer or assign the same or any part thereof or any claim thereto shall be void. Said funds shall be sacredly held, kept, and disbursed for the purposes provided by this Act, and for no other purpose whatsoever.

Military Service

Sec. 21. Members of the Pension System engaged in active military service required because of a National Emergency shall not be required to make the monthly payments into the Pension System Fund provided for in this Act, nor shall they lose any previous years of service with the Police Department caused by such military service. Such military service shall count as continuous service in the Police Department, provided that when the member is discharged from the military service he shall immediately return to his former duties with the city Police Department. The city, however, shall be required to make its regular monthly payments into the Pension System Fund on each member while he is so engaged in such military service. In the event of death of a member of this Pension System, either directly or indirectly caused from such military service, his widow or dependent parent or other dependents shall not be entitled to receive any benefits from this Fund.

Civil actions

Sec. 22. The Pension Board of any city as herein created and constituted shall have the power and authority to recover by civil action from any offending party, or from his bondsmen, if any, any moneys paid out or obtained from said Pension Fund through fraud, misrepresentation, theft, embezzlement, or misapplication, and may institute, conduct and maintain such action in the name of said Board for the use and benefit of such Fund.

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 such invalid portion, if any.

Former employees now receiving pension

Sec. 24. Immediately upon this Act becoming a law, the former employees of any such Police Department who are now being paid a pension from a pension fund, shall hereafter be paid a monthly pension of One Hundred Dollars (\$100) per month out of the Pension Fund provided for herein. Any such city shall have the right and option to pay such former employees any amount over and above those hereinabove provided for, but such additional payments, if any, shall be borne by such city and not the Pension Fund.

Election; adoption without election

Sec. 25. The city is authorized to call an election to determine if the city desires to adopt this Act after a petition has been presented to the governing body of the city, signed by five per cent (5%) of the qualified voters of the city who voted in the last municipal election. Such election must be advertised by publication in at least one (1) newspaper of general circulation in said city once each week for four (4) consecutive weeks. The question shall be submitted to the qualified voters of the city at a special election to be held for such purpose at which all ballots shall have printed thereon:

“FOR: The proposed Police Pension System.”

“AGAINST: The proposed Police Pension System.”

No other issues shall be joined with the proposition submitted at this election on the same ballot.

Nothing herein is to prevent the city governing body from adopting the proposed pension plan without an election.

Withdrawal of moneys; return on reinstatement

Sec. 26. Any policeman who has been relieved from duty or voluntarily quits shall have the right to withdraw all moneys paid in by him into the Pension System. If he is reinstated in the Police Department with full seniority, he shall return to the Pension Fund the amount of money previously withdrawn when his services were terminated. Acts 1951; 52nd Leg., p. 397, ch. 254.

Emergency. Effective May 17, 1951.

Section 27 of the Act of 1951 repealed conflicting laws and parts of law in so far as in conflict only. It expressly repealed Article 6243i.

Title of Act:

An Act establishing a Police Officers' Pension System in all cities of this State having a population of not less than one

hundred and fifty thousand (150,000) inhabitants, nor more than four hundred thousand (400,000) inhabitants, according to the last preceding or any future Federal Census; providing a saving clause; repealing all laws or parts of laws in conflict herewith; and declaring an emergency. Acts 1951, 52nd Leg., p. 397, ch. 254.

TITLE 110A—PUBLIC OFFICES

Art. 6252—4. Military service of employees [New]. 6252—5. Expenditures [New].	Art. 6252—6. State property; responsibility and accounting [New].
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Art. 6252—4. Military service of employees

Restoration to employment or discharge

Section 1. Any employee of the State of Texas, other than a temporary employee, an elected official or one serving under an appointment which requires confirmation by the Senate, who leaves his position in time of war or during the national emergency and enters the military, air or naval forces of the United States or other active Federal military duty or service by reason of induction into the armed forces of the United States or in compliance with orders to active Federal military duty, or enters service as a member of the Texas National Guard or Texas State Guard or as a member of any of the reserve components of the Armed Forces of the United States shall, if discharged, separated or released from such active military service under honorable conditions, be restored to employment in the same department, office, commission, board or other agency of the state constituting employment by the State of Texas, and to the same position held at the time of induction or order to active Federal or State military duty or service, or to a position of like seniority, status and pay if still physically and mentally qualified to perform the duties of such position.

Restoration to other employment for which qualified

Sec. 2. If such person is not qualified to perform the duties of such position by reason of disability sustained during such military service, but qualified to perform the duties of another position in the same department, office, commission, board or other state agency, the veteran shall be restored to employment in such other position, the duties of which the veteran is qualified to perform, as will provide like seniority, status, and pay, or the nearest possible approximation thereof.

Deemed to have been on furlough or leave of absence

Sec. 3. Any person who is restored to a position in accordance herewith shall be considered as having been on furlough or leave of absence during such absence in Federal or State military service, and shall be entitled to participation in retirement or other benefits to which employees of the State of Texas are, or may be, entitled and shall not be discharged from such position without cause within one year after such restoration.

Application for restoration

Sec. 4. Veterans eligible for restoration to employment hereunder shall make written application for such restoration within ninety days after discharge or release from active Federal or State military service, to the head of the department, office, commission, board or other such state agency constituting employment by the State of Texas in or by which such veteran was employed prior to entering such military service, and shall attach thereto evidence of discharge, separation or release from

such military service under honorable conditions. Acts 1951, 52nd Leg., p. 169, ch. 107.

Emergency. Effective April 20, 1951.

Title of Act:

An Act providing for and regulating the restoration to employment of certain state employees now serving or who may serve

in the armed forces of the United States in time of war or during the national emergency; and declaring an emergency. Acts 1951, 52nd Leg., p. 168, ch. 107.

Art. 6252—5. Expenditures

Boards, bureaus, commissions and agencies of state

Section 1. All expenditures of funds appropriated to the various boards, bureaus, commissions and other agencies of the State of Texas now in existence, or hereafter created shall be made by order of the governing body thereof and the same shall be paid by warrants drawn by the Comptroller of Public Accounts on vouchers approved by the chairman or president of the governing body or by an executive officer, official or employee of such board, bureau, commission or other agency designated by the governing body by order entered on its minutes, if any, and countersigned by the secretary or an executive officer or official designated by the governing body by order entered on its minutes, if any. A certified copy of any such order entered pursuant to the provisions of this Section designating an officer, official or employee to approve and execute or to countersign vouchers, together with a signature card of the person or persons designated, shall be filed with the Comptroller of Public Accounts.

Purchases by Board of Control

Sec. 1. (a) All invoices sent to the State Board of Control for verification, auditing and approval from the various State Agencies, Departments, Commissions and Institutions for goods purchased by the Board of Control as provided by law shall be approved by the Board of Control or by an executive, official or employees designated by the Board of Control.

Notice of such designation shall be given the Comptroller in writing together with a signature card of the person so designated.

Funds appropriated to state departments

Sec. 2. All expenditures of funds appropriated to the various State departments shall be made by the elected or appointed head of the department and the same shall be paid on warrants drawn by the Comptroller of Public Accounts on vouchers approved by such head of the department or by an executive officer, official or employee of the department designated by the head of the department.

Notice of such designation shall be given the Comptroller in writing together with a signature card of the person designated.

State Highway Commission

Sec. 2. (a) By appropriate order, duly recorded in its official minutes, the State Highway Commission may delegate to some employee or employees of the State Highway Department the authority and duty to approve and sign vouchers for expenditures from the State Highway Fund provided same have been verified by affidavit as required by law; likewise the State Highway Commission may delegate to some employee or employees of the State Highway Department the authority and duty to approve and sign contracts, agreements, and other documents; provided that the purpose and effect of any such voucher or other document shall be to activate and/or carry out the orders, established policies, or work programs theretofore approved and authorized by the State Highway Com-

mission. Each order of the State Highway Commission thus delegating said authority to an employee shall include the limitations herein provided. The State Highway Commission may require any employee exercising the powers provided for in this Act to execute a bond, payable to the State, in such sum as the Commission may deem necessary, to be approved by the Commission, and conditioned upon the faithful performance of his duties. The premium on such bond shall be paid from the State Highway Fund.

Application of act

Sec. 3. This Act shall not apply to any board, bureau, commission or other agencies of the State whose governing bodies are now authorized by law to designate executive officers or officials to approve and execute and to countersign vouchers nor to any State department whose head is now authorized by law to designate an executive officer or official of the department to approve and execute vouchers. Acts 1951, 52nd Leg., p. 584, ch. 341.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 6252—6. State property; responsibility and accounting

Legislative Finding and Purpose

Section 1. The Legislature finds that the State has a very substantial investment in real and personal property and that a substantial portion of the annual income of the State is spent to acquire property for State purposes and to maintain State property. The purpose of this Act is to establish a system for the orderly accounting for State property, to establish responsibility for the maintenance and care of State property and to prescribe the method of fixing pecuniary liability for the misuse of State property by officials and employees. The principles embodied in this Act are now found in the common law and Statutes of this State; this Act restates those principles and prescribes the implementing procedures. The State has a real interest in its property and is entitled to having it managed and used in a sound and businesslike manner so that the maximum benefits may be obtained from it and the State's investment therein protected.

Definitions

Sec. 2. The provisions of Articles 10, 11, 12, 14, 22, and 23, Revised Civil Statutes of Texas, 1925, and Acts, Fiftieth Legislature, 1947, Chapter 359,¹ on the interpretation of Statutes shall apply specifically to this Act. In addition to these standard definitions, in this Act, unless the context otherwise requires:

(a) "Agency" shall include any State department, agency, board or other instrumentality, whether it is financed in whole or part by funds appropriated by the Legislature or not; but shall not include local political subdivisions of the State, such as counties, cities, towns, school districts, flood control districts, irrigation districts, and the like.

(b) "Agency head" shall mean the full-time State elected or appointed official or officials who administer the agency or the executive who has been appointed to administer the agency by a part-time State elected or appointed official or officials.

¹ Article 23a.

Property Accounting

Sec. 3. All real and personal property belonging to the State shall be accounted for by the head of the agency which has possession of the property.

(a) The Comptroller of Public Accounts shall administer the property accounting system established by this Act. The State Auditor shall administer the property responsibility system established by this Act. The Comptroller shall issue such rules and regulations and manual of instruction and prescribe such records, reports, and forms as he deems necessary to accomplish the objects of this Act subject to the approval of the State Auditor. The State Auditor is directed to cooperate with the Comptroller in the exercise of the Comptroller's rule-making powers herein granted by giving technical assistance and advice.

(b) The Comptroller shall maintain a complete and accurate set of centralized records of State property. However, where the Comptroller finds that an agency has demonstrated its ability and competence to maintain complete and accurate detailed records of the property it possesses without the detailed supervision by the Comptroller, the Comptroller may direct that the detailed records be kept at the principal office of such agency. Where the Comptroller issues such order, the Comptroller shall keep only summary records of the property of such agency and the agency shall keep such detailed records as the Comptroller directs and furnish the Comptroller with such reports at such times as the Comptroller directs.

(c) Each agency head shall cause each item of State property possessed by his agency to be marked so as to identify it. The agency head shall follow the instructions issued by the Comptroller in marking State property.

Agencies and Property Subject to Control

Sec. 4. (a) All State agencies shall comply with the provisions of this Act and shall keep the property records required by the Act.

(b) All real property owned by the State shall be accounted for by the agency which possesses the property. However, the real property administered by the General Land Office shall be accounted for by that office and not by the system prescribed in this Act, and the real property administered by the permanent funds established by the Legislature and people shall be accounted for by the agency now charged with its administration and not by the System prescribed in this Act.

(c) All personal property owned by the State shall be accounted for by the agency which possesses the property. The Comptroller shall by regulation define what is meant by personal property for the purposes of this Act. Unless the Comptroller prescribes otherwise, personal property shall mean all nonconsumable personal property having a value of Ten Dollars (\$10) or more per unit. In promulgating such regulations, the Comptroller shall take into account the value of the property, its expected useful life, and the cost of record keeping as compared with the value of the property. It is the policy of this provision that the cost of record keeping should bear a reasonable relationship to the cost of the property upon which records are kept. The Comptroller shall consult with the State Auditor in making such regulations and the Auditor shall cooperate with the Comptroller in the exercise of this rule-making power by giving technical assistance and advice.

Property Responsibility

Sec. 5. Each agency head is responsible for the proper custody, care, maintenance, and safekeeping of the State property possessed by his agency.

(a) Each agency head shall designate either himself or one of his employees as property manager. The Comptroller shall be informed in writing by the agency head of the name of the property manager and shall be informed of any changes. Where the Comptroller finds that convenience and efficiency will be served, he may permit more than one property manager to be appointed by the agency head.

(b) The property manager shall maintain the required records on all property possessed by the agency and shall be the custodian of all such property.

(c) No person shall entrust State property to any State official or employee or to anyone else to be used for other than State purposes.

(d) When an agency's property is entrusted to some person other than the property manager, the property manager shall require a written receipt for such property executed by the person receiving custody of the property. When the possession of property of one agency is entrusted to another agency on loan, such transfer shall be done only when authorized in writing by the agency head who is lending such property and the written receipt shall be executed by the agency head who is borrowing such property. The property manager is relieved of the responsibility for property which is the subject of such a receipt.

(e) Each agency shall make a complete physical inventory of all property in its possession once a year. The inventory shall be taken on the date prescribed for the agency by the Comptroller.

(f) The agency head shall forward a signed statement describing the method by which the inventory was verified, along with a copy of such inventory within forty-five (45) days after the inventory date for the agency.

(g) The Comptroller shall supervise the property accounting records of each agency so that the records accurately reflect the property currently possessed by the agency. The Comptroller shall prescribe the methods whereby items of property are deleted from the property records of the agency. Property that is deleted because it has become surplus and has been disposed of under the laws relating thereto administered by the Board of Control shall be deleted only upon authorization of the Board of Control. Property that is deleted from the agency's records for other reasons, including obsolescence, shall be deleted only upon authorization of the State Auditor.

Transfer of Property to Incoming Agency Head

Sec. 6. When there is a change in agency heads or property managers, the incoming agency head or property manager shall execute a receipt for all agency property accounted for to the outgoing agency head or property manager. A copy of such receipt shall be delivered to the Comptroller, to the State Auditor and to the outgoing agency head or property manager. No further warrants in favor of the outgoing agency head or property manager shall be drawn or paid until the State Auditor has certified that the agency property has been properly accounted for. The State Auditor may make this certification without requiring that a physical inventory be taken.

Pecuniary Liability

Sec. 7. Where agency property disappears, whether through theft or other cause, as a result of the failure of the agency head, property manager or agency employee entrusted with the property in writing to exercise reasonable care for its safekeeping, such person shall be pecuniarily liable to the State for the loss thus sustained by the State. Where agency property deteriorates as a result of the failure of the agency head, property manager or agency employee entrusted with the property in writing to exercise reasonable care to maintain and service the property, such person shall be pecuniarily liable to the State for the loss thus sustained by the State. Where agency property is damaged or destroyed as a result of an intentional wrongful act or of a negligent act of any State official or employee, such person shall be pecuniarily liable to the State for the loss thus sustained by the State. The liability prescribed by this Section may be found to attach to more than one person in a particular instance; in such cases, the liability shall be joint and several.

Reports—Investigation

Sec. 8. When any State property has been lost, destroyed or damaged through the negligence or fault of any State official or employee, the agency head responsible for such property under the provisions of this Act shall immediately report such loss, destruction, or damage to the State Auditor. Upon learning in any manner of such property loss, destruction, or damage, the State Auditor shall investigate the matter. If the investigation discloses that an injury has been sustained by the State through the fault of a State official or employee, the State Auditor shall make written demand upon such State official or employee for reimbursement to the State for the loss so sustained.

Enforcement of State's Claim

Sec. 9. In case the demand made by the State Auditor, in accordance with this Act, for reimbursement for property loss, destruction, or damage is refused or disregarded by the State official or employee upon whom such demand is made, the State Auditor shall report the facts to the Attorney General. If, after an investigation of the facts, the Attorney General finds that legal liability may be adjudged against the State official or employee, he shall take such legal action to recover the monetary loss of the State property occasioned by the loss, damage or destruction as in his opinion may be deemed necessary. Venue for all such suits instituted against a State official or employee shall lie in the Courts of appropriate jurisdiction of Travis County.

Sanctions

Sec. 10. When any agency fails to keep the records required under the provisions of this Act or fails to take the annual physical inventory, the Comptroller may refuse to draw any warrants on behalf of such agency.

Information Copy to State Employees

Sec. 11. Each agency head shall distribute a copy of this Act to each official and employee of his agency and shall give a copy to each new employee of the agency. Acts 1951, 52nd Leg., p. 602, ch. 356.

Title of Act:

An Act providing for the accounting and responsibility for and use of State property possessed by State Department, agen-

cies, boards and instrumentalities; and declaring an emergency. Acts 1951, 52nd Leg., p. 602, ch. 356.

TITLE 112—RAILROADS**CHAPTER ELEVEN—RAILROAD COMMISSION OF TEXAS****Art. 6475. 6671, 4575 Damages**

"If any railroad subject to this title shall do, cause or permit to be done any matter, act or thing prohibited or declared to be unlawful, or shall omit to do any act, matter or thing herein required to be done by it, such railroad shall be liable to the person or persons, firm or corporation injured thereby for the damages sustained in consequence of such violation. As amended Acts 1951, 52nd Leg., p. 778, ch. 430, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 114—RECORDS

1. RECORDS

Art.

6581a. Destruction of beer licenses and related papers [New].

1. RECORDS

Art. 6581a. Destruction of beer licenses and related papers

In all counties having a population of eight hundred thousand (800,000) or more, according to the last preceding Federal Census, the County Clerk and the Assessor and Collector of Taxes are hereby authorized and directed to destroy all applications for beer licenses, office copies of notices issued on such applications, and copies of such beer licenses on file in their respective offices at any time after the expiration of one (1) year from the expiration date of such license. Docket sheets kept by the County Clerk showing the name of the owner, name of the business, the address where operated, the class of license applied for, and other information shall be retained by the County Clerk as a public record. Acts 1951, 52nd Leg., p. 377, ch. 241, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act to authorize the County Clerk and the Assessor and Collector of Taxes in all counties having a population of eight hundred thousand (800,000) or more, according to the last preceding Federal Cen-

sus, after the expiration of one (1) year from their expiration date, to destroy all expired beer licenses, applications, and copies of notices which were issued in connection with such applications; and declaring an emergency. Acts 1951, 52nd Leg., p. 377, ch. 241.

CHAPTER THREE—EFFECT OF RECORDING

Art. 6626. 6823, 4639, 4331 What may be recorded

The following instruments of writing which shall have been acknowledged or proved according to law, are authorized to be recorded, viz.: all deeds, mortgages, conveyances, deeds of trust, bonds for title, covenants, defeasances or other instruments of writing concerning any lands or tenements, or goods and chattels, or moveable property of any description; provided, however, that in cases of subdivision or re-subdivision of real property no map or plat of any such subdivision or re-subdivision shall be filed or recorded unless and until the same has been authorized by the Commissioners Court of the county in which the real estate is situated by order duly entered in the minutes of said Court, except in cases of the partition or other subdivision through a court of record; provided that where the real estate is situated within the corporate limits or within five miles of the corporate limits of any incorporated city or town, the governing body thereof or the city planning commission, as the case may be, as provided in Article 974a, Vernon's Texas Civil Statutes, shall perform the duties hereinabove imposed upon the Commissioners Court. As amended Acts 1951, 52nd Leg., p. 745, ch. 403, § 1.

Emergency. Effective June 8, 1951.

TITLE 116—ROADS, BRIDGES, AND FERRIES

Chap.

Art.

6. Particular Counties, Law Relating to [New] - - - - - 6812b

CHAPTER ONE—STATE HIGHWAYS

1A. CONSTRUCTION AND MAIN-
TENANCE

Art.

6674t. Roads within institutions, hospitals
and schools [New].

Art.

6674n—1. Agreements for cultivation by
adjoining owners of land not
needed immediately [New].

1A. CONSTRUCTION AND MAINTENANCE

Art. 6674n—1. Agreements for cultivation by adjoining owners of land
not needed immediately

The Texas Highway Department may enter into written agree-
ments with owners of the lands abutting or adjoining the lands acquired
by the Department for right of way for any highway, farm-to-mar-
ket road, or other roadway in the State Highway System, under the
terms of which such owners of abutting or adjoining lands may be au-
thorized to use and cultivate such portions of the right of way as may not
be required for immediate use of the Department. The agreements may
contain provisions regarding the use, cultivation, construction of im-
provements, the placement of fences and such other matters as may be
mutually agreed to by the Department and the respective owners of the
abutting or adjoining lands. Such agreements shall be executed by the
owners of the adjoining or abutting lands and the State Highway Engi-
neer or his authorized representative; provided, however, that the De-
partment, by such agreements, may not impair or relinquish the State's
right to use such land for right-of-way purposes when it is required
for the construction or reconstruction of the road for which it was ac-
quired, nor shall use by adjoining or abutting land owners under such
agreement ever be construed as abandonment by the Department of such
lands acquired for right-of-way purposes. Acts 1951, 52nd Leg., p. 795,
ch. 439, § 1.

Emergency. Effective June 15, 1951.

Art. 6674q—5. Repealed. Acts 1951, 52nd Leg. p. 695, ch. 402, § XXIV
(§ 2). Eff. Sept. 1, 1951

Motor fuel taxes, allocation of portion
of taxes collected to State Highway Fund,
see art. 7065b—25.

Art. 6674t. Roads within institutions, hospitals and schools

Section 1. The Texas State Highway Department is hereby author-
ized and empowered, upon request of the Board for Texas State Hospitals
and Special Schools or the State Youth Development Council, to enter into
agreements or contracts with the Board or with the Council for the con-
struction, maintenance and repair of roads within any of the institutions,

hospitals and schools under the control, management or supervision of the Board or the Council.

Sec. 2. The Board for Texas State Hospitals and Special Schools and the State Youth Development Council are hereby authorized to reimburse the appropriate funds of the Texas State Highway Department for the cost of construction and/or maintenance performed under Section 1. Prior to the transfer of any funds, the Board and/or the Council shall notify the Comptroller in writing what funds and what amounts are to be transferred and direct the Comptroller to make the appropriate transfer.

Sec. 3. 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 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. Acts 1951, 52nd Leg., p. 309, ch. 187.

Emergency. Effective May 16, 1951.

Title of Act:

An Act authorizing the State Highway Department of Texas to enter into agreements with the Board for Texas State Hospitals and Special Schools and/or the State Youth Development Council for the

construction and maintenance of roads within the grounds of institutions under the supervision of the Board and/or the Council; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 309, ch. 187.

2. REGULATION OF VEHICLES

Art. 6675a—5. Fees; motorcycles and passenger vehicles

The annual license fee for the registration of a motorcycle shall be Five Dollars (\$5). The annual license fee for the registration of a passenger car and a street or suburban bus shall be based upon the weight of a vehicle as follows:

Weight in Pounds	Fee per One Hundred (100) Pounds or Fraction Thereof
1-2,000	\$.28
2,001-3,500	.36
3,501-4,500	.48
4,501-and up	.50

"The weight of any passenger car or of any street or suburban bus, for purpose of registration, shall be the weight generally accepted as its correct shipping weight plus one hundred (100) pounds. As amended Acts 1951, 52nd Leg., p. 303, ch. 180, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the amendatory Act of 1951, provided that 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 3 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 6675a—11. Fees of tax collector

As compensation for his services under the provisions of this and other laws relating to the registration of vehicles, each County Tax Assessor-Collector shall receive a uniform fee of Sixty Cents (60¢)

for each of the first five thousand (5,000) receipts issued by him each year pursuant to said laws; he shall receive a uniform fee of Fifty Cents (50¢) for each of the next ten thousand (10,000) receipts so issued, a uniform fee of Forty Cents (40¢) for each of the next ten thousand (10,000) receipts so issued and a uniform fee of Thirty Cents (30¢) for each of the balance of said receipts so issued during the year. Said compensation shall be deducted weekly by each County Tax Assessor-Collector from the gross collection made pursuant to this Act and other laws relating to registration of vehicles. Out of the compensation so allowed the County Tax Assessors-Collectors, it is hereby expressly provided and required that they shall pay the entire expense of issuing all license receipts and license plates issued pursuant hereto, including the cost of labor performed in issuing said receipts, license plates and the cost of postage used in mailing same to applicants. As amended Acts 1951, 52nd Leg., p. 278, ch. 161, § 1.

Emergency. Effective April 1, 1952.

Section 2 of the amendatory Act of 1951 provided that 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 3 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 6675a—12a. Duplicate license receipt

The owner of a vehicle, the license receipt for which has been lost or destroyed, may obtain a duplicate thereof from the State Highway Department or the County Collector who issued the original receipt by paying a fee of Twenty-five Cents (25¢) for said duplicate. The fees derived from the issuance of duplicate license receipts are to be retained by the office issuing same as a fee of office. As amended Acts 1951, 52nd Leg., p. 279, ch. 162, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the amendatory Act of 1951 provided that 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 3 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 6675a—13. Plate or plates or other devices for attachment to vehicles

The State Highway Department is hereby authorized to issue for each registration year plates or a single plate of metal or other materials, symbols, tabs, or other devices which when attached to a vehicle having been duly registered for the preceding registration years shall for the purpose of this Act be deemed to be the legal registration insignia for the registration year for which issued.

Upon payment of the prescribed registration fee by applicants for motor vehicle registration, the State Highway Department is authorized to issue plates or a single plate of metal or other material, symbols, tabs, or other devices to be attached to a vehicle having duly authorized license plate, plates, or other insignia for the preceding registration year. 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.

The owner of each vehicle re-registered for each such registration years is hereby directed to attach to the vehicle the legal registration insignia issued by State Highway Department in place or places prescribed by the State Highway Department in such manner as to be clearly visible. As amended Acts 1951, 52nd Leg., p. 290, ch. 172, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the amendatory Act of 1951, provided that 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 3 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 6687b. Drivers', chauffeurs', and commercial operators' licenses; accident reports

Sec. 3. What persons are exempt from license

4a. A person operating a commercial motor vehicle, the gross weight of which does not exceed six thousand (6,000) pounds as that term is defined in Article 6675a—6 of the Revised Civil Statutes of Texas, operated in the manner and bearing current farm registration plates as provided in Article 6675a—6a of the Revised Civil Statutes, who holds an operator's license, shall not be required to obtain a commercial operator's license. Added Acts 1951, 52nd Leg., p. 251, ch. 147, § 1.

Emergency. Effective May 10, 1951.

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."

Beginning September 1, 1951, all fees and charges deposited in the Operator's and Chauffeur's License Fund under the provisions of this Act shall be used for the payment of salaries, purchases of equipment and supplies, maintenance and other necessary expenses of the Main Division of the Department of Public Safety, heretofore operated on an appropriation from the General Revenue Fund, and the Driver's License Division of the Department of Public Safety. Any remaining balance in the Operator's and Chauffeur's License Fund on September 1st of each and every year thereafter shall remain in such fund and may be used for the purposes set forth hereinabove. As amended Acts 1951, 52nd Leg., p. 209, ch. 124, § 1.

Sec. 19. Fees for license

The fees as provided for in this Act shall be as follows:

"For a chauffeur's license, Three Dollars (\$3); for a commercial operator's license, Two Dollars (\$2); for an operator's license, One Dollar (\$1). As amended Acts 1951, 52nd Leg., p. 209, ch. 124, § 2.

Section 3 of the amendatory act of 1951 repealed conflicting laws and parts of laws to the extent of the conflict.

CHAPTER ONE A—TRAFFIC REGULATIONS

Art. 6701e. Blind and incapacitated pedestrians [New].	Art. 6701g. Restricted traffic zones in counties of 600,000 population [New].
6701f. Speed signs [New].	6701h. Safety Responsibility Law [New].

Art. 6701d. Uniform Act Regulating Traffic on Highways

Signals by hand and arm or signal device

Sec. 69. Any stop or turn signal when required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device of a type approved by the department. However, when the body of a vehicle or the body and load of any vehicle or in a combination of vehicles projects twenty-four (24") inches or more to the left of the center of the steering wheel, or under any condition when a hand and arm signal would not be visible both to the front and rear of such vehicle or vehicles, then such vehicle or vehicles must be equipped with, and said signals must be given by such turn indicating lamps or devices. As amended Acts 1951, 52nd Leg., p. 253, ch. 149, § 1.

Effective 90 days after June 8, 1951,
date of adjournment.

Safety glass in motor vehicles

Sec. 136. (a) It shall be unlawful after the first day of January, 1948, for any person to sell any new motor vehicle nor shall the same be registered in this state, unless the doors, windows and windshields of such vehicle be equipped with safety glass wherever glass is used in doors, windows and windshields.

(b) It shall be unlawful after the first day of January, 1948, for any person to replace, or cause to be replaced, any glass in doors, windows or windshields in any motor vehicle, unless such replacement be made with safety glass as defined in this Act.

(c) The term 'safety glass' as used in this Act shall mean any product composed of glass so manufactured, fabricated or treated as to substantially prevent shattering and flying of the glass when struck or broken. As amended Acts 1951, 52nd Leg., p. 319, ch. 194, § 1.

Emergency. Effective May 17, 1951.

Safety guards or flaps behind rear wheels or tractors, trucks, etc.

Sec. 139a. It shall be unlawful to operate any road tractor, truck, truck tractor, trailer or semitrailer, having four (4) or more tires on the rear axle thereof upon any highway in this State when the highway upon which the same is operated is wet unless such road tractor, truck, truck tractor, trailer or semitrailer be equipped with safety guards or flaps of a type of material and construction prescribed by the department, located and suspended behind the rear wheels of such vehicle to within six (6) inches of the surface of the highway so as to prevent mud and road-slush from the tires of such vehicle being transmitted to the windshield of any following motor vehicle following at a distance of not less than one hundred (100) feet. Provided, however, that "pole trailers" shall not come under the provisions of this Act. Added Acts 1951, 52nd Leg., p. 854, ch. 479, § 1.

Emergency. Effective June 21, 1951.

Section 2 of the amendatory act of 1951 read as follows: "All laws or parts of laws in conflict with the provisions of this Act

are hereby repealed to the extent of such conflict, but in the event of a conflict between the provisions of this Act and any of the orders, rules, regulations or require-

ments of the Interstate Commerce Commission or of the Railroad Commission of Texas relating to the equipping of any road tractor, truck, truck tractor, trailer or semitrailer for reasons of public safety, compliance with such orders, rules, regulations or requirements shall be deemed a compliance with this Act."

Compulsory Inspection

Sec. 140. (a) It shall be the duty of the Texas Department of Public Safety to require every owner of a motor vehicle, trailer, semitrailer, pole trailer or house trailer, registered in this State, to have the mechanism, brakes, and equipment upon such vehicles inspected at State appointed inspection stations or by State Inspectors as hereinafter provided, except that provisions relating to the inspection of trailers and semitrailers shall not apply when the gross weight of such trailer or semitrailer and the load carried thereon is four thousand (4,000) pounds or less.

(b) If such inspection discloses the necessity for adjustments, corrections or repairs, the mechanism, brakes and equipment shall be adjusted, corrected or repaired before a certificate is issued as hereinafter provided. The owner may have such adjustments, corrections or repairs made by such qualified person or persons as he may choose, subject to reinspection as hereinafter provided.

(c) Official inspection stations appointed and supervised by the State of Texas shall make all inspections pursuant to the provisions of this Section, except as provided in subdivision (d) hereof. The Department shall cause one (1) inspection to be made in the year commencing with the effective date of this Act, and annually thereafter. The periods of inspection shall be fixed by the Department. The Department shall have power to make rules and regulations with respect to the periods and the character and extent of the inspections to be made.

(d) The Department may, in its discretion, permit inspection as herein provided to be made by State inspectors under such terms and conditions as the Department may prescribe.

(e) No license of a motor vehicle shall be issued and no transfer of the title to a motor vehicle shall be made unless such motor vehicle has been inspected under the terms of this Act within twelve (12) months prior to the issuance of such license or transfer. After the period designated for the inspection, no person shall operate on the highways of this State any motor vehicle registered in this State unless a valid certificate of inspection is displayed thereon as required by this Section and any inspector or patrolman of the Department of Public Safety, or any sheriff or deputy sheriff, who shall exhibit his badge or other signs of authority, may stop any motor vehicle not displaying this inspection certificate on the windshield and require the owner or operator to produce an official inspection certificate for the motor vehicle being operated.

(f) Any person operating a motor vehicle on the highways of this State, other than a motor vehicle licensed in another State and being temporarily and legally operated under a valid reciprocity agreement, in violation of the provisions of this Act, or without displaying an inspection certificate shall be guilty of a misdemeanor, and shall upon conviction be punished as provided in Section 143.

(g) The Department may appoint and remove such patrolmen, assistants, inspectors and employees as it may deem necessary to carry out the provisions of this Section, prescribe their powers and duties, and fix their compensation within the amounts made available by appropriation.

(h) The provisions of this Act shall not apply to the vehicles referred to in paragraph (a) of this Section when moving under or bearing current "Factory Delivery License Plates"; current "Intransient License Plates." As amended Acts 1951, 52nd Leg., p. 240, ch. 141, § 1.

State Appointed Inspection Stations

Sec. 141. (a) The Department may establish State appointed inspection stations to carry out the provisions of this Section. Such stations may be located anywhere in the State, and should any be established or appointed, there shall be at least one (1) for each county. The Department is authorized to furnish instructions to, and to supervise official inspection stations for corrections, adjustments, repairs, and inspection of motor vehicles, trailers, semitrailers, pole trailers and house trailers for the proper and safe performance of steering mechanism, brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, and such other conditions to assure that such vehicles are in conformity with this Act. Every person desiring to operate as an official inspection station shall file an application for a certificate of appointment with the Department.

The application shall be made upon a form prescribed and furnished by the Department, and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business within the State, and such other information as the Department may require. If the applicant has or intends to have more than one place of business within the State, a separate application shall be made for each place of business.

If the applicant is an association, the application shall set forth the names and the addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof, and any other information prescribed by the Department for purposes of identification. The application shall be signed and verified by oath or affirmation by the owner, if a natural person; in the case of an association, by a member or partner thereof; and in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority.

Only such locations which fulfill the Department's requirements and whose owners or proprietors comply with Department regulations shall qualify and be appointed and issued a certificate. Upon approval of an application, the Department shall issue to the owner a certificate of appointment as an official inspection station for the place of business within the State set forth in the application.

Certificates of appointment shall not be assignable, and shall be valid for the owners in whose names issued and for the transaction of business at the place designated therein, and shall at all times be conspicuously displayed at the place for which issued.

Upon being advised that an application will be approved, the applicant shall provide the bond hereinafter required and a fee of Five Dollars (\$5) which shall constitute the certificate fee until August 31st of the odd numbered year following the date of appointment. Thereafter, appointments shall be made for two-year periods and the certificate fee for each such period shall be Five Dollars (\$5). All certificate fees shall be placed in a fund in the State Treasury to be known as the Motor Vehicle Inspection Fund and shall be used by the Department in the administration of this Act.

(b) Every owner of an official inspection station shall be required to furnish a bond payable to the State of Texas in the amount of One Thousand Dollars (\$1,000) to indemnify the State against the violation of any of the terms and conditions of this Act. Any inspector or any official or employee of any inspection station who shall issue an official certificate

of inspection without having made an inspection of the vehicle for which it is issued or who shall knowingly or willfully issue an official inspection certificate for a motor vehicle or vehicle, the mechanism, brakes, and equipment of which are not at the time of such issuance in a good condition and in conformity with the laws of this State shall forfeit said bond to the State of Texas.

(c) Any owner of an official inspection station who by himself, agent, servant or employee, violates any provision of this Section shall, upon conviction, be punished by a fine not exceeding Five Hundred Dollars (\$500) and the certificate of appointment shall be automatically cancelled and shall be surrendered to the magistrate before whom convicted and forwarded by such magistrate to the Department. The Department may for cause, upon notice in an administrative hearing, cancel the certificate of any inspection station and the decision of the Department in respect to the cancellation of the license of an official inspection station for cause, or the refusal to reissue a license to an official inspection station shall be final.

(d) The fee for compulsory inspection to be made under this Section shall be One Dollar (\$1). One fourth ($\frac{1}{4}$) of each fee shall be paid to the Department and shall be set up in a special fund in the State Treasury for the purpose of paying the expense of the operation of this law. If an inspection discloses the necessity for adjustments, corrections or repairs, such motor vehicles shall be reinspected free of charge after the adjustments, corrections or repairs have been made. Any such motor vehicle under the terms of this Act if involved in an accident subsequent to the required inspection shall return to the said inspection station after adequate repairs are made for a second and reinspection procedure. The Department shall have the power, from time to time, to adopt such rules and regulations, not inconsistent with law, as it may deem necessary to effectively accomplish the purposes and enforce the provisions of this Section. All such rules and regulations shall be promulgated and a certified copy filed in the office of the Secretary of State and shall become effective thirty (30) days thereafter. Copies of such rules and regulations shall be posted at the courthouse door of each of the several counties of this State and copies thereof made available by the Department to any person making request therefor without charge.

(e) No certificate of inspection shall be issued by any inspector or inspection station until the mechanism, brakes, and equipment of the vehicle inspected shall have been found to be in proper and safe condition and to comply with the laws of this State. No person shall make, issue or knowingly use an imitation or counterfeit of an official inspection certificate. As amended Acts 1951, 52nd Leg., p. 240, ch. 141, § 2.

Establishment of Standards of Safety

Sec. 142. (a) The Department may establish uniform standards of safety, not inconsistent with law, with respect to brakes, lights, horn, mirrors, windshields, windshield wipers, steering mechanism, wheel alignment and such other equipment or attachments as it may deem necessary. Such standards of safety shall be posted in every official inspection station. Every motor vehicle inspected shall be required to conform in all respects to the standards of safety established pursuant to this Section.

(b) The Department shall furnish to inspection stations certificates of inspection, serially numbered, each of which shall, when issued, bear the registration number of the motor vehicle for which issued and shall be countersigned by the inspector or person in charge of the inspection sta-

tion, and shall bear the true date of issuance, and shall be valid for a period not to exceed twelve (12) months from the date of issuance, but in any event such certificate shall be invalid after the first day of the next ensuing period of inspection. One of such certificates of inspection shall be designated for the windshield of any motor vehicle, and shall be pasted in the lower right hand corner of the windshield. A certificate issued on a vehicle other than a motor vehicle shall be attached to such vehicle as the Department may require. As amended Acts 1951, 52nd Leg., p. 240, ch. 141, § 3.

Acts 1951, ch. 141, effective 90 days after June 8, 1951, date of adjournment.

Sections 4-6 of the amendatory Act of 1951, ch. 141, read as follows:

"Sec. 4. This Act shall take effect and be in force ninety (90) days after its passage, but in no event earlier than July 1, 1951.

"Sec. 5. If any portion of this Act is held unconstitutional by a court of competent jurisdiction, the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part hereof.

"Sec. 6. All laws and parts of laws in conflict with this Act are hereby repealed to the extent of such conflict only."

Art. 6701e. Blind and incapacitated pedestrians

Unlawful use of canes

Section 1. It is unlawful for any person, unless totally or partially blind or otherwise incapacitated, to carry while on any public street or highway, in a raised or extended position, a cane or walking stick which is white in color or white tipped with red.

Precautions by drivers of vehicles

Sec. 2. Whenever a pedestrian is crossing or attempting to cross a public street or highway, at or near an intersection or crosswalk, and such pedestrian is accompanied by a guide dog or is carrying in a raised or extended position a cane or walking stick which is white in color, or white tipped with red, the driver of every vehicle approaching the said intersection or crosswalk shall take such precautions as may be necessary to avoid injuring or endangering such pedestrian; and if injury or danger to such pedestrian can be avoided only by bringing his vehicle to a full stop, he shall bring his said vehicle to a full stop.

Existing rights and privileges; contributory negligence

Sec. 3. Nothing contained in this Act shall be construed to deprive any totally or partially blind or otherwise incapacitated person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways, nor shall the failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick, or to be guided by a guide dog upon the streets, highways or sidewalks of this State, be held to constitute or be evidence of contributory negligence.

Punishment for violations

Sec. 4. Any person who violates any provision of this Act shall, upon conviction, be punished by a fine of not more than Two Hundred (\$200.-00) Dollars. Acts 1951, 52nd Leg., p. 123, ch. 76.

Emergency. Effective April 25, 1951.

Title of Act:

An Act to protect the blind and incapacitated pedestrians on public streets and highways; requiring vehicles to come to

a full stop in certain cases; restricting the use of certain canes by other pedestrians; imposing penalties; and declaring an emergency. Acts 1951, 52nd Leg., p. 123, ch. 76.

Art. 6701f. Speed signs

It shall be the duty of the State Highway Department and said Department is hereby directed to erect and maintain on the highways and roads of Texas appropriate signs showing the maximum lawful speed for commercial motor vehicles, truck tractors, trailers and semitrailers (trucks) and motor vehicles engaged in the business of transporting passengers for compensation or hire (buses). Acts 1951, 52nd Leg., p. 163, ch. 100, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 6701g. Restricted traffic zones in counties of 600,000 population**Establishment**

Section 1. The Commissioners Court of any county in this State having a population of six hundred thousand (600,000) or more according to the last preceding Federal Census is hereby authorized to create and establish restricted traffic zones on county roads under their jurisdiction.

Limits of zone; rate of speed

Sec. 2. The limits of said traffic zones shall be set forth in the minutes of the Court, and said Court shall have the power and authority upon the basis of an engineering and traffic investigation to determine and fix the maximum, reasonable and prudent speed at any road or highway intersection, railroad grade crossing, curve or hill, or upon any other part of a county road less than the maximum fixed by law for public highways, taking into consideration the width and condition of the surface of the road and other circumstances on such portion of said road as well as the usual traffic thereon. Whenever the Commissioners Court of any county shall determine and fix the rate of speed at any such point upon any county road at a less rate of speed than the maximum fixed by law for public highways and shall declare the maximum, reasonable and prudent speed limit thereat by proper order of the Court entered on its minutes, such rate of speed shall become effective and operative at said point on said highways when appropriate signs giving notice thereof are erected at such intersection or portion of the road under order of the Court.

Traffic control devices

Sec. 3. The Commissioners Court of any county having a population of more than six hundred thousand (600,000) according to the last preceding Federal Census may adopt rules and regulations consistent with this Act for the establishment of a system of traffic control devices within restricted traffic zones established on county roads under its jurisdiction and such system shall conform to the State Highway Department's manual and specifications. The Court may, pursuant to order entered on its minutes, place, erect, install and maintain upon county roads within traffic zones such traffic control devices, including but not limited to traffic signal lights and stop signs, as it may deem necessary for the public safety.

Stopping, standing or parking

Sec. 4. The Commissioners Court of any county having a population of more than six hundred thousand (600,000) according to the last preceding Federal Census, with respect to roads under its jurisdiction, may place signs prohibiting or restricting the stopping, standing, or parking of vehicles on any road within a restricted traffic zone where in the opinion of the Commissioners Court such stopping, standing, or parking is

dangerous to those using the road or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic. Such signs shall be erected pursuant to order of the Court and it shall be unlawful for any person to stop, stand, or park any vehicle in violation of the restrictions stated on such signs.

Injury or removal of signs or devices

Sec. 5. Any person who shall deface, injure, knock down or remove any sign or traffic control device erected pursuant to an order of the Commissioners Court as provided in this Act shall be guilty of a misdemeanor.

Punishment for violations

Sec. 6. Any person operating a motor vehicle in violation of any order of the Commissioners Court entered pursuant to this Act or otherwise violating any provision hereof shall be guilty of a misdemeanor and shall upon conviction be punished by fine not exceeding Fifty Dollars (\$50) for the first offense; by a fine not exceeding Two Hundred Dollars (\$200) for the second offense; and by a fine not exceeding Five Hundred Dollars (\$500) or imprisonment in the county jail not to exceed sixty (60) days, or both such fine and imprisonment for each subsequent offense.

Partial invalidity

Sec. 7. If any portion of this Act is held unconstitutional by a Court of competent jurisdiction the remaining provisions shall nevertheless be valid the same as if the unconstitutional portion had not been part of this Act. Acts 1951, 52nd Leg., p. 483, ch. 302.

Emergency. Effective May 23, 1951.

Title of Act:

An Act authorizing the Commissioners Courts of certain counties to create and establish traffic zones on county roads; authorizing regulations relative to opera-

tion of motor vehicles; providing for the regulation of stopping, standing, or parking; providing penalties for violation of the provisions of this Act; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 483, ch. 302.

Art. 6701h. Safety Responsibility Law

ARTICLE I—WORDS AND PHRASES DEFINED

Definitions

Section 1. The following words and phrases, when used in this Act, shall, for the purposes of this Act, have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning:

1. "Highway" means the entire width between property lines of any road, street, way, thoroughfare, or bridge in the State of Texas not privately owned or controlled, when any part thereof is open to the public for vehicular traffic and over which the State has legislative jurisdiction under its police power.

2. "Judgment"—Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use

thereof, or upon a cause of action on an agreement of settlement for such damages.

3. "Motor Vehicle"—Every self-propelled vehicle which is designed for use upon a highway, including trailers and semi-trailers designed for use with such vehicles (except traction engines, road rollers and graders, tractor cranes, power shovels, well drillers and implements of husbandry) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

4. "License"—Any driver's, operator's, commercial operator's, or chauffeur's license, temporary instruction permit or temporary license, or restricted license, issued under Article 6637b, Texas Revised Civil Statutes, pertaining to the licensing of persons to operate motor vehicles.

5. "Non-resident"—Every person who is not a resident of the State of Texas.

6. "Non-resident's Operating Privilege"—The privilege conferred upon a non-resident by the laws of Texas pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in the State of Texas.

7. "Operator"—Every person who is in actual physical control of a motor vehicle.

8. "Owner"—A person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this Act.

9. "Person"—Every natural person, firm, copartnership, association or corporation.

10. "Proof of Financial Responsibility"—Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of Five Thousand Dollars (\$5,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to said limit for one (1) person, in the amount of Ten Thousand Dollars (\$10,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of Five Thousand Dollars (\$5,000) because of injury to or destruction of property of others in any one (1) accident.

11. "Registration"—Registration or license certificate or license receipt or dealer's license and registration or number plates issued under Article 6675a or Article 6686, Texas Revised Civil Statutes, pertaining to the registration of motor vehicles.

12. "Department" means the Department of Public Safety of the State of Texas, acting directly or through its authorized officers and agents, except in such Sections of this Act in which some other State Department is specifically named.

13. "State"—Any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

ARTICLE II—ADMINISTRATION OF ACT

Department to administer act—appeal to court

Sec. 2. (a) The Department shall administer and enforce the provisions of this Act and may make rules and regulations necessary for its administration, and shall provide for hearings upon request of persons aggrieved by orders or acts of the Department under the provisions of this Act.

(b) Any order or act of the Department, under the provisions of this Act, may be subject to review within ten (10) days after notice thereof, by appeal to the County Court at Law at the instance of any party in interest and in the county wherein the person aggrieved by such order or act resides, or if there be no County Court at Law therein, then in the County Court of said county, or if there be no County Court having jurisdiction, then such jurisdiction shall be in the District Court of said county, and such court is hereby vested with jurisdiction, and such appeal shall be by trial de novo. The court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the Department. The court may, in disposing of the issue before it, modify, affirm, or reverse the order or decision of the Department in whole or in part.

(c) Trial in the court shall be de novo, with the burden of proof upon the Department, and the substantial evidence rule shall not be invoked or apply, but the same shall be tried without regard to any prior holding of fact or law by the Department, and judgment entered only upon the evidence offered at the trial by the Court. A trial by jury may be had upon proper application.

Department to furnish operating record

Sec. 3. The Department shall, upon request and receipt of proper fees, furnish any person a certified abstract of the operating record of any person subject to the provisions of this Act, which abstract shall also fully designate the motor vehicles, if any, registered in the name of such person, and, if there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the Department shall so certify.

ARTICLE III—SECURITY FOLLOWING ACCIDENT

Report required following accident

Sec. 4. The operator of every motor vehicle which is in any manner involved in an accident within this State, in which any person is killed or injured or in which damage to the property of any one (1) person, including himself, in excess of One Hundred Dollars (\$100) is sustained, shall within ten (10) days after such accident report the matter in writing to the Department. Such report, the form of which shall be prescribed by the Department, shall contain information to enable the Department to determine whether the requirements for the deposit of security under Section 5 are inapplicable by reason of the existence of insurance or other exceptions specified in this Act. Any written report of accident in accordance with Article 6701d, Section 44, Texas Revised Civil Statutes, if actually made to the Department, shall be sufficient pro-

vided it also contains the information required herein. The Department may rely upon the accuracy of the information unless and until it has reason to believe that the information is erroneous. If such operator be physically incapable of making such report, the owner of the motor vehicle involved in such accident shall, within ten (10) days after learning of the accident, make such report. The operator or the owner shall furnish such additional relevant information as the Department shall require.

Security required unless evidence of insurance—when security determined—suspension—exceptions

Sec. 5. (a) If twenty (20) days after the receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death, or damage to the property of any one (1) person in excess of One Hundred Dollars (\$100), the Department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under Sub-section (b) of this Section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the Department shall determine the amount of security which shall be sufficient in its judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each operator or owner.

(b) The Department shall, within sixty (60) days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in such accident, and if such operator is a non-resident the privilege of operating a motor vehicle within this State, and if such owner is a non-resident the privilege of the use within this State of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in the sum so determined by the Department; provided notice of such suspension shall be sent by the Department to such operator and owner not less than ten (10) days prior to the effective date of such suspension and shall state the amount required as security. Where erroneous information is given the Department with respect to the matters set forth in Subdivisions 1, 2 and 3 of Subsection (c) of this Section, it shall take appropriate action as hereinbefore provided, within sixty (60) days after receipt by it of correct information with respect to said matters.

(c) This Section shall not apply under the conditions stated in Section 6 nor:

1. To such operator or owner if such owner had in effect at the time of such accident a motor vehicle liability policy with respect to the motor vehicle involved in such accident;

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident a motor vehicle liability policy with respect to his operation of motor vehicles not owned by him;

3. To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the Department, covered by any other form of liability insurance policy; nor

4. To any person qualifying as a self-insurer under Section 34 of this Act, or to any person operating a motor vehicle for such self-insurer.

No such policy shall be effective under this Section unless issued by an insurance company or surety company authorized to write motor vehicle liability insurance in this State, except that if such motor vehicle was not registered in this State, or was a motor vehicle which was registered elsewhere than in this State at the effective date of the policy, or the most recent renewal thereof, such policy shall not be effective under this Section unless the insurance company or surety company if not authorized to do business in this State shall execute a power of attorney authorizing the Department to accept service on its behalf of notice or process in any action upon such policy arising out of such accident; providing, however, every such policy is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than Five Thousand Dollars (\$5,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than Ten Thousand Dollars (\$10,000) because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than Five Thousand Dollars (\$5,000) because of injury to or destruction of property of others in any one accident.

Further exceptions to requirement of security

Sec. 6. The requirements as to security and suspension in Section 5 shall not apply:

1. To the operator or the owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such operator or owner;

2. To the operator or the owner of a motor vehicle legally parked at the time of the accident;

3. To the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission; nor

4. If, prior to the date that the Department would otherwise suspend license and registration or non-resident's operating privilege under Section 5, there shall be filed with the Department evidence satisfactory to it that the person who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident.

Duration of suspension

Sec. 7. The license and registration and non-resident's operating privilege suspended as provided in Section 5 shall remain so suspended and shall not be renewed nor shall any such license or registration be issued to such person until:

1. Such person shall deposit or there shall be deposited on his behalf the security required under Section 5; or

2. One year shall have elapsed following the date of such accident and evidence satisfactory to the Department has been filed with it that during such period no action for damages arising out of the accident has been instituted; or

3. Evidence satisfactory to the Department has been filed with it of a release from liability, or a final adjudication of nonliability, or a duly acknowledged written agreement, in accordance with Subdivision 4 of

Section 6; provided, however, in the event there shall be any default in the payment of any installment under any duly acknowledged written agreement, then, upon notice of such default, the Department shall forthwith suspend the license and registration or non-resident's operating privilege of such person defaulting which shall not be restored unless and until

(1) Such person deposits and thereafter maintains security as required under Section 5 in such amount as the Department may then determine; or

(2) One (1) year shall have elapsed following the date when such security was required and during such period no action upon such agreement has been instituted in a court in this State.

**Application to non-residents, unlicensed drivers, unregistered motor vehicles
and accidents in other states**

Sec. 8. (a) In case the operator or the owner of a motor vehicle involved in an accident within this State has no license or registration, or is a non-resident, he shall not be allowed a license or registration until he has complied with the requirements of this Article to the same extent that would be necessary if, at the time of the accident, he had held a license and registration.

(b) When a non-resident's operating privilege is suspended pursuant to Section 5 or Section 7, the Department shall transmit a certified copy of the record of such action to the official in charge of the issuance of licenses and registration certificates in the state in which such non-resident resides, if the law of such other state provides for action in relation thereto similar to that provided for in Subsection (c) of this Section.

(c) Upon receipt of such certification that the operating privilege of a resident of this State has been suspended or revoked in any such other State pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the Department to suspend a non-resident's operating privilege had the accident occurred in this State, the Department shall suspend the license of such resident if he was the operator, and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other State relating to the deposit of such security.

Form and amount of security

Sec. 9. The security required under this Article shall be in such form and in such amount as the Department may require but in no case in excess of the limits specified in Section 5 in reference to the acceptable limits of a policy. The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the Department or the State Treasurer of the State of Texas, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons; provided, however, that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

The Department may reduce the amount of security ordered in any case within six (6) months after the date of the accident if, in its judgment, the amount ordered is excessive. In case the security originally or-

dered has been deposited the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of Section 10.

Custody, Disposition and Return of Security

Sec. 10. Security deposited in compliance with the requirements of this Article shall be placed by the Department in the custody of the State Treasurer and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one (1) year after the date of such accident, or within one (1) year after the date of deposit of any security under Subdivision 3 of Section 7, or to the payment in settlement, agreed to by the depositor, of a claim or claims arising out of such accident. Such deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the Department has been filed with it that there has been a release from liability, or a final adjudication of nonliability, or a duly acknowledged agreement, in accordance with Subdivision 4 of Section 6, or whenever, after the expiration of one (1) year from the date of the accident, or two (2) from the date of deposit of any security under Subdivision 3 of Section 7, the Department shall be given reasonable evidence that there is no such action pending and no judgment rendered in such action left unpaid.

Matters not to be evidence in civil suits

Sec. 11. Neither the report required by Section 4, the action taken by the Department pursuant to this Article, the findings, if any, of the Department upon which such action is based, nor the security filed as provided in this Article shall be referred to in any way, nor be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages.

**ARTICLE IV—PROOF OF FINANCIAL RESPONSIBILITY
FOR THE FUTURE**

Courts to report non-payment of judgments and convictions

Sec. 12. (a) Whenever any person fails within sixty (60) days to satisfy any judgment, upon the written request of the judgment creditor or his attorney it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this State, to forward to the Department immediately after the expiration of said sixty (60) days, a certified copy of such judgment.

(b) If the defendant named in any certified copy of a judgment reported to the Department is a non-resident, the Department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the State of which the defendant is a resident.

(c) The clerk of the court, or the judge of a court which has no clerk, in which any conviction for violation of a motor vehicle law is rendered, or in which a person charged with violation of a motor vehicle law has pleaded guilty or forfeited bail, shall forward immediately to the Department a certified copy of the judgment, order or record of other action of the court. This copy shall be prima-facie evidence of the conviction, plea or other action stated.

Suspension for non-payment of judgments—exceptions

Sec. 13. (a) Upon the receipt of a certified copy of a judgment, the Department shall forthwith suspend the license and registration and any non-resident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this Section and in Section 16 of this Act.

(b) If the judgment creditor consents in writing, in such form as the Department may prescribe, that the judgment debtor be allowed license and registration or non-resident's operating privilege, the same may be allowed by the Department, in its discretion, for six (6) months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in Section 16, provided the judgment debtor furnishes proof of financial responsibility.

Suspension to continue until judgments paid and proof given

Sec. 14. (a) Such license, registration and non-resident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided and until the said person gives proof of financial responsibility subject to the exemptions stated in Sections 13 and 16 of this Act.

(b) A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this Article.

Payments sufficient to satisfy requirements

Sec. 15. Judgments herein referred to shall, for the purpose of this Act only, be deemed satisfied:

1. When Five Thousand Dollars (\$5,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

2. When, subject to such limit of Five Thousand Dollars (\$5,000) because of bodily injury to or death of one person, the sum of Ten Thousand Dollars (\$10,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

3. When Five Thousand Dollars (\$5,000) has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident;

Provided, however, payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this Section.

Installment payment of judgments—default

Sec. 16. (a) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which

the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

(b) The Department shall not suspend a license, registration or a non-resident's operating privilege, and shall restore any license, registration or non-resident's operating privilege suspended following non-payment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of such judgment in installments, and while the payment of any said installment is not in default.

(c) In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the Department shall forthwith suspend the license, registration or non-resident's operating privilege of the judgment debtor until such judgment is satisfied, as provided in this Act.

Proof required upon certain convictions

Sec. 17. (a) Whenever the Department, under any law of this State, suspends or revokes the license of any person upon receiving record of a conviction or a forfeiture of bail, the Department shall also suspend the registration for all motor vehicles registered in the name of such person, except that the Department shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

(b) Such license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person until permitted under the Motor Vehicle Laws of this State and not then unless and until he shall give and thereafter maintain proof of financial responsibility.

(c) If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of license, or for operating a motor vehicle upon the highways without being licensed to do so, or for operating an unregistered motor vehicle upon the highways, no license shall thereafter be issued to such person and no motor vehicle shall continue to be registered or thereafter be registered in the name of such person until he shall give and thereafter maintain proof of financial responsibility.

(d) Whenever the Department suspends or revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

Alternate methods of giving proof

Sec. 18. Proof of financial responsibility when required under this Act with respect to a motor vehicle or with respect to a person who is not the owner of a motor vehicle may be given by filing:

1. A certificate of insurance as provided in Section 19 or Section 20;
- or
2. A bond as provided in Section 24; or
3. A certificate of deposit of money or securities as provided in Section 25; or
4. A certificate of self-insurance, as provided in Section 34, supplemented by an agreement by the self-insurer that, with respect to acci-

dents occurring while the certificate is in force, he will pay the same judgments and in the same amounts that an insurer would have been obligated to pay under an owner's motor vehicle liability policy if it had issued such a policy to said self-insurer.

No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such proof shall be furnished for such motor vehicle.

Certificate of insurance as proof

Sec. 19. (a) Proof of financial responsibility may be furnished by filing with the Department the written certificate of any insurance company duly authorized to write motor vehicle liability insurance in this State certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.

(b) No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such motor vehicle is so designated in such a certificate.

Certificate furnished by non-resident as proof

Sec. 20. (a) The non-resident owner of a motor vehicle not registered in this State may give proof of financial responsibility by filing with the Department a written certificate or certificates of an insurance company authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate are registered, or if such non-resident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to the provisions of this Act, and the Department shall accept the same upon condition that said insurance company complies with the following provisions with respect to the policies so certified:

1. Said insurance company shall execute a power of attorney authorizing the Department to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this State;

2. Said insurance company shall agree in writing that such policies shall be deemed to conform with the laws of this State relating to the terms of motor vehicle liability policies issued herein.

(b) If any insurance company not authorized to transact business in this State, which has qualified to furnish proof of financial responsibility, defaults in any said undertakings or agreements, the Department shall not thereafter accept as proof any certificate of said company whether theretofore filed or thereafter tendered as proof, so long as such default continues.

Motor vehicle liability policy defined

Sec. 21. (a) A "motor vehicle liability policy" as said term is used in this Act shall mean an owner's or an operator's policy of liability insurance, certified as provided in Section 19 or Section 20 as proof of financial responsibility, and issued, except as otherwise provided in Section 20, by an insurance company duly authorized to write motor vehicle liability insurance in this State, to or for the benefit of the person named therein as insured.

(b) Such owner's policy of liability insurance:

1. Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

2. Shall pay on behalf of the insured named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, all sums which the insured shall become legally obligated to pay as damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: Five Thousand Dollars (\$5,000) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to said limit for one (1) person, Ten Thousand Dollars (\$10,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and Five Thousand Dollars (\$5,000) because of injury to or destruction of property of others in any one (1) accident.

(c) Such operator's policy of liability insurance shall pay on behalf of the insured named therein all sums which the insured shall become legally obligated to pay as damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this Act as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this Act.

(e) Such motor vehicle liability policy shall not insure:

1. Any obligation for which the insured or any company as his insurer may be held liable under any workmen's compensation law;

2. Any liability on account of bodily injury to or death of any employee of the insured while engaged in the employment, other than domestic, of the insured, or in domestic employment if benefits therefor are either payable or required to be provided under any workmen's compensation law; nor

3. Any liability because of injury to or destruction of property owned by, rented to, in charge of or transported by the insured.

(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

1. The liability of the insurance company with respect to the insurance required by this Act shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance company and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy;

2. The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance company to make payment on account of such injury or damage;

3. The insurance company shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in Subdivision 2 of Subsection (b) of this Section;

4. The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of the Act shall constitute the entire contract between the parties.

(g) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this Act. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this Section.

(h) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance company for any payment the insurance company would not have been obligated to make under the terms of the policy except for the provisions of this Act.

(i) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one (1) or more insurance companies which policies together meet such requirements.

(k) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

Notice of cancellation or termination of certified policy

Sec. 22. When an insurance company has certified a motor vehicle liability policy under Section 19 or a policy under Section 20, the insurance so certified shall not be canceled or terminated until at least five (5) days after a notice of cancellation or termination of the insurance so certified shall be received in the office of the Department, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

Act not to affect other policies

Sec. 23. (a) This Act shall not be held to apply to or affect policies of motor vehicle insurance against liability which may now or hereafter be required by any other law of this State, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this Act, may be certified as proof of financial responsibility under this Act.

(b) This Act shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of motor vehicles not owned by the insured.

Bond as proof

Sec. 24. (a) Proof of financial responsibility may be furnished by filing a bond with the Department, accompanied by the statutory recording fee of the County Clerk to cover the cost of recordation of the notice provided for herein, and with at least two (2) individual sureties each owning real estate within this State, not exempt under the Constitution or laws of the State of Texas, and together having equities equal in value to at least twice the amount of such bond. Such real estate shall be scheduled in the bond approved by a judge of a court of record, and shall be certified by the tax assessor and collector of the county where the property is situated as being free from any tax liens. Such bond shall

be conditioned for payments in amounts and under the same circumstances as would be required in a motor vehicle liability policy, and shall not be cancelable except after five (5) days written notice is received by the Department, but cancellation shall not prevent recovery with respect to any right or cause of action arising prior to the date of cancellation. Such bond shall constitute a lien in favor of the State upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such bond. Notice to that effect, which shall include a description of the real estate scheduled in the bond, shall be filed by the Department in the office of the County Clerk of the county where such real estate is situated. Such notice shall be accompanied by the statutory fee for the services of the County Clerk in connection with the recordation of such notice, and the County Clerk or his deputy, upon receipt of such notice, shall acknowledge and cause the same to be recorded in the lien records. Recordation shall constitute notice as provided by the statutes governing the recordation of liens on real estate.

(b) If a judgment, rendered against the principal on such real estate bond, shall not be satisfied within sixty (60) days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the State against the persons who executed such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond, which foreclosure action shall be brought in like manner and subject to all the provisions of law applicable to an action to foreclose a mortgage on real estate.

Money or securities as proof

Sec. 25. (a) Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him Fifteen Thousand Dollars (\$15,000) in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of Fifteen Thousand Dollars (\$15,000). The State Treasurer shall not accept any such deposit and issue a certificate therefor and the Department shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b) Such deposit shall be held by the State Treasurer to satisfy, in accordance with the provisions of this Act, any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

Owner may give proof for others

Sec. 26. Whenever any person required to give proof of financial responsibility hereunder is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the Department shall accept proof given by such owner in lieu of proof by such other person to permit such other person to operate a motor vehicle for which the owner has given proof

as herein provided. The Department shall designate the restrictions imposed by this Section on the face of such person's license.

Substitution of proof

Sec. 27. The Department shall consent to the cancellation of any bond or certificate of insurance or the Department shall direct and the State Treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this Act.

Other proof may be required

Sec. 28. Whenever any proof of financial responsibility filed under the provisions of this Act no longer fulfills the purposes for which required, the Department shall for the purpose of this Act, require other proof as required by this Act and shall suspend the license and registration or the non-resident's operating privilege pending the filing of such other proof.

Duration of proof—when proof may be canceled or returned

Sec. 29. The Department shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the Department shall direct and the State Treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this Act as proof of financial responsibility, or the Department shall waive the requirement of filing proof, in any of the following events:

1. At any time after three (3) years from the date such proof was required when, during the three-year period preceding the request, the Department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or non-resident's operating privilege of the person by or for whom such proof was furnished; or

2. In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

3. In the event the person who has given proof surrenders his license and registration to the Department;

Provided, however, that the Department shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has, within one (1) year immediately preceding such request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the non-existence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the Department.

Whenever any person whose proof has been canceled or returned under Subdivision 3 of this Section applies for a license or registration within a period of three (3) years from the date proof was originally required, any such application shall be refused unless the applicant shall re-establish such proof for the remainder of such three-year period.

ARTICLE V—VIOLATION OF PROVISIONS OF ACT—PENALTIES

Transfer of registration to defeat purpose of act prohibited

Sec. 30. If an owner's registration has been suspended hereunder, such registration shall not be transferred nor the motor vehicle in respect of which such registration was issued registered in any other name until the Department is satisfied that such transfer of registration is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this Act. Nothing in this Section shall in any wise affect the rights of any conditional vendor, chattel mortgagee or lessor of a motor vehicle registered in the name of another as owner who becomes subject to the provisions of this Section.

Surrender of license and registration

Sec. 31. Any person whose license or registration shall have been suspended as herein provided, or whose policy of insurance or bond, when required under this Act, shall have been canceled or terminated, or who shall neglect to furnish other proof upon request of the Department shall immediately return his license and registration to the Department. If any person shall fail to return to the Department the license or registration as provided herein, the Department shall forthwith direct any peace officer to secure possession thereof and to return the same to the Department.

Other violations—penalties

Sec. 32. (a) Failure to report an accident as required in Section 4 shall be punished by a fine not in excess of Twenty-five Dollars (\$25), and in the event of injury or damage to the person or property of another in such accident, the Department shall suspend the license of the person failing to make such report, or the non-resident's operating privilege of such person, until such report has been filed and for such further period not to exceed thirty (30) days as the Department may fix.

(b) Any person who gives information required in a report or otherwise as provided for in Section 4, knowing or having reason to believe that such information is false, or who shall forge or, without authority, sign any evidence of proof of financial responsibility, or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

(c) Any person whose license or registration or non-resident's operating privilege has been suspended or revoked under this Act and who, during such suspension or revocation drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this Act, shall be fined not more than Five Hundred Dollars (\$500) or imprisoned not exceeding six (6) months, or both.

(d) Any person willfully failing to return license or registration as required in Section 31 shall be fined not more than Five Hundred Dollars (\$500) or imprisoned not to exceed thirty (30) days, or both.

(e) Any person who shall violate any provision of this Act for which no penalty is otherwise provided shall be fined not more than Five Hundred Dollars (\$500) or imprisoned not more than ninety (90) days, or both.

ARTICLE VI—GENERAL PROVISIONS

Exceptions

Sec. 33. This Act shall not apply with respect to any motor vehicle owned by the United States, the State of Texas or any political subdivision of this State or any municipality therein; nor, except for Sections 4 and 26 of this Act, with respect to any motor vehicle which is subject to the requirements of Articles 911a (Sec. 11) and 911b (Sec. 13) of Texas Revised Civil Statutes; provided, however, that nothing in this Act shall be construed so as to exclude from this Act its applicability to taxicabs, jitneys or other vehicles for hire operating under franchise or permit of any incorporated city.

Self-insurers

Sec. 34. (a) Any person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the Department as provided in Subsection (b) of this Section.

(b) The Department may, in its discretion, upon the application of a person, issue a certificate of self-insurance when it is satisfied with such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(c) Upon not less than five (5) days notice and a hearing pursuant to such notice, the Department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty (30) days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

Assigned risk plan

Sec. 35. Subject to the provisions of Section 9 of Article 4682b of Texas Revised Civil Statutes, insurance companies authorized to issue motor vehicle liability policies in this State may establish an administrative agency and make necessary reasonable rules in connection therewith, relative to the formation of a plan and procedure to provide a means by which insurance may be assigned to an authorized insurance company for a person required by this Act to show proof of financial responsibility for the future and who is in good faith entitled to motor vehicle liability insurance in this State but is unable to secure it through ordinary methods; and may establish a plan and procedure for the equitable apportionment among such authorized companies of applicants for such policies and for motor vehicle liability policies, including, but not limited to, voluntary agreements by insurance companies to accept such assignments. When any such plan has been approved by the Board of Insurance Commissioners, all insurance companies authorized to issue motor vehicle liability policies in the State of Texas shall subscribe thereto and participate therein.

The Board of Insurance Commissioners, in addition to the provision prescribed by Article 4682b, may determine, fix, prescribe, promulgate, change, and amend rates or minimum premiums normally applicable to a risk so as to apply to any and every assignment such rates and minimum premiums as are commensurate with the greater hazard of the risk, considering in connection therewith the experience, physical or other conditions of such risk of the person applying for insurance under any such plan.

Disposition of fees

Sec. 36. All fees and charges required by this Act shall be remitted without deduction to the Department at Austin, Texas, and all such fees so collected shall be deposited in the Treasury of the State of Texas to the credit of the Operator's and Chauffeur's License Fund established under Article 6687b, Texas Revised Civil Statutes. In addition to statutory recording fees of county clerks required in Section 24, any filing with, certification or notice to the Department in compliance with any of the provisions of this Act, or request for certified abstract of operating record required in Section 3, except report of accident required in Section 4, shall be accompanied by a fee of Five Dollars (\$5) for each transaction. Statutory fees required by the State Highway Department in furnishing certified abstracts or in connection with suspension of registrations, or such statutory fees which shall become due the State Treasurer for issuance of certificates of deposits required in Section 25, shall be remitted from such Fund.

Appropriation

Sec. 37. There is hereby appropriated out of the Operator's and Chauffeur's License Fund such money as may be necessary for the purpose of defraying the expenses of this Act through the biennium ending August 31, 1953, not to exceed the sum of Three Hundred Thousand Dollars (\$300,000) for the fiscal year ending August 31, 1952 and not to exceed the sum of Two Hundred Thousand Dollars (\$200,000) for the fiscal year ending August 31, 1953. So much money as is necessary to administer this Act shall be used for the employment of necessary clerical and administrative help and for defraying the necessary expenses incident to travel, rental and any judicial hearings relative to court review, and including printing of all necessary forms required by this Act, and including the purchase through bids taken by the Board of Control of all necessary furniture, fixtures and equipment of any nature; provided the number of employees and the salaries of each shall be consistent with the number of employees and the salaries of each as fixed by the Legislature in the Biennial Departmental Appropriation Bill for like service. The Director of the Department shall prepare a budget covering operations through August 31, 1953, and submit the same for approval of the Legislative Budget Board and no warrants may be issued by the Comptroller until the same shall have been approved. Such budget shall be itemized.

Method of disbursements

Sec. 38. All disbursements made hereunder to the Department shall be by warrant issued by the Comptroller upon vouchers drawn by the Chairman of the Department of Public Safety Commission or the Director, and such vouchers shall be accompanied by itemized sworn statements of the expenditures for which they are issued.

Act supplemental to motor vehicle laws

Sec. 39. This Act shall in no respect be considered as a repeal of the motor vehicle laws of this State but shall be construed as supplemental thereto.

Past application of act

Sec. 40. This Act shall not apply with respect to any accident, or judgment arising therefrom, or violation of the motor vehicle laws of this State, occurring prior to the effective date of this Act.

Act not to prevent other process

Sec. 41. Nothing in this Act shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law.

Constitutionality

Sec. 42. 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 part or parts thereof would be declared unconstitutional.

Short title of act

Sec. 43. This Act may be cited as the Texas Motor Vehicle Safety-Responsibility Act.

Section 44 of the act of 1951, provided that this Act shall take effect the first day of January, 1952.

CHAPTER SIX.—PARTICULAR COUNTIES, LAW RELATING TO [NEW]

Art.
6812b. Counties of 198,000 to 400,000 population.

Art. 6812b. Counties of 198,000 to 400,000 population

Rules, regulations, plans and system

Section 1. In all counties in this State having a population of more than one hundred and ninety-eight thousand (198,000) inhabitants, and less than four hundred thousand (400,000) inhabitants according to the last preceding Federal Census, and wherein is situated an incorporated city having a population in excess of two hundred and fifty thousand (250,000) inhabitants according to the last preceding Federal Census, the Commissioners Court of such counties shall have full power and authority, and it shall be its duty to adopt, at a meeting of said court of which the county judge and at least three (3) of the county commissioners of said counties shall be present and cause to be recorded in the minutes of said court, and put into effect such rules, regulations, plans and system for the maintenance, laying out, opening, widening, draining, grading, constructing, building and repairing of the public roads of said counties, other than the State highways located therein, as the available funds of the counties will permit so as to facilitate travel between the communities thereof, subject to and in harmony with the duties of the county engineer as herein specified. Where such rules, regulations, plans and system have already been adopted by the Commissioners Court of such counties and are of record, it shall not be necessary to repeat the same in the absence of public necessity therefor, but same may be amended and supplemented from time to time as the public needs may require.

County engineer

Sec. 2. The Commissioners Court of each such county shall appoint a county engineer, but the selection shall be controlled by considerations of skill and ability for the task; such engineer may be selected at any reg-

ular meeting of the Commissioners Court, or at any special meeting called for that purpose, and such engineer shall hold his office for a period of two (2) years, his term of office expiring concurrently with the terms of other county officers, but may be removed at the pleasure of the Commissioners Court. Such engineer shall receive a salary to be fixed by the Commissioners Court not to exceed Ten Thousand Dollars (\$10,000) per year, to be paid out of the second-class road and bridge fund; such engineer before entering upon the discharge of his duties, shall take the oath of office prescribed by law, and shall execute a bond in the sum of Fifteen Thousand Dollars (\$15,000), with a good and sufficient surety or sureties thereon, payable to the county judge of said county and his successors in office in trust, for the use and benefit of the road and bridge fund of said county, to be approved by the court, conditioned that such engineer will faithfully and efficiently discharge and perform all of the duties required of him by law and by the orders of said Commissioners Court and shall faithfully and honestly and in due time, account for all the money, property and materials placed in his custody.

Classification and record of roads

Sec. 3. The county engineer shall, under the direction of the Commissioners Court, and as soon as practicable, classify all public roads in such county, and such classification when completed, and when approved by the court, shall become a part of the permanent records, of roads and bridges, of said counties. He shall prepare a suitable map on which shall be delineated in appropriate colors the various roads which shall be designated as first, second and third class roads; said map shall show to which class each road belongs and the nature of its construction. He shall make a complete indexed record of each county road in the county, together with all bridges; said records shall show when each county road was dedicated to the use of the public, a complete description as to location, measured length, width of right of way, character of construction and terminals of same.

Each road shall be indexed in said record by the same number and name as it is delineated on said map. As new roads are opened and improved, and the existing roads are widened or improved so as to change their class, such facts shall be added to the record of such roads in the "Records of Roads." Such information shall be made available to the public; provided, however, that any omission in respect to the above requirement shall not invalidate any contract for the construction or repair of any road or highway in said county, and where such classification, records and indexes have heretofore been prepared there shall be no necessity to repeat the same in the absence of public necessity therefor, but same may be amended, added to or taken from as the facts and public need may demand.

Inventory and appraisal of equipment; disposal and purchase

Sec. 4. The county engineer shall at the end of every three (3) months, acting in conjunction with the county purchasing agent of said county, make a complete inventory and appraisal of all tools, machinery, equipment, materials, trucks, cars, and other property owned by the second-class road and bridge fund, and transmit the same in written form to the Commissioners Court and the county auditor, which written report shall be kept as a "Permanent Inventory Record" by the county auditor, and when any of said tools, machinery, trucks, cars and other property and equipment become unusable, the Commissioners Court shall enter an order upon the minutes of the court, stating such facts and the reason for disposing of such equipment and shall have authority to dispose

of same as it deems best. When in its opinion it is necessary to purchase other machinery, supplies, tools and other equipment and materials, the Commissioners Court shall enter an order on the minutes showing the necessity therefor. All equipment purchased or acquired as herein specified, shall be shown on the "Permanent Inventory Record."

Employees

Sec. 5. The Commissioners Court shall employ all help necessary for the discharge of their public service. Such employees shall receive such compensation as may be fixed by the court, but in all such cases an order shall be passed and entered on the minutes of the court, showing in each case the public necessity for such employment and the amount of compensation to be paid each employee and the fund out of which it is to be paid.

Daily time sheet

Sec. 6. The engineer shall keep, or cause to be kept, in duplicate a daily time sheet which shall show the amount of time and the character of work performed and the place where the same is performed by each person working for the county on road maintenance or construction, and such other records in connection therewith as the Commissioners Court and the county auditor may require, one (1) copy of which shall be furnished the county auditor, and one (1) copy shall be retained in the office of the engineer.

Master plan

Sec. 7. The county engineer shall, when funds are available and when authorized by the Commissioners Court to do so, make a careful and thorough survey of all roads at that time opened and constructed with a view of determining what new roads and connections of roads should be opened and constructed, as well as what roads should be widened and improved. In making such survey, he shall take into consideration the convenience of the traveling public, and especially the convenience of the citizenship of the county, so that each community or part of the county shall have easy and practical connection with the other and with the State highway system of roads in said county, thereby furnishing to the citizenship of the county a convenient means of ingress and egress into and out of every city and town, as well as every other community in the county. The roads indicated in such surveys to be opened and constructed, as well as existing roads that are designated to be widened and improved, shall be located and designated with a view of giving the entire county an efficient road system. The Commissioners Court shall, in selecting roads or new roads, as well as the improvement of existing roads, look to the density of the population, the amount of traffic that will normally flow over such roads. Such survey, when completed by the engineer, and when adopted by the Commissioners Court at a regular meeting thereof, shall be known as the "Master Plan." When such "Master Plan" has been completed, and adopted by the court as herein stipulated, the same shall be made in permanent record form and kept by the county engineer, and after such adoption, all new construction, widening and permanent improvement shall be done in accordance with such "Master Plan" with a view of ultimately completing the same, both as to location and character of construction. The construction and completion of said "Master Plan" shall proceed as the available funds of the county will permit, and each unit of such construction shall be made in accordance with such "Master Plan." The order in which the roads or projects in the construction of said "Master Plan" are constructed shall be determined by the county engineer, with the approval of the Commissioners Court

and in determining the priority of roads or projects, the engineer and court shall take into consideration the necessity and convenience of the public and shall give priority to those roads or projects that will result in the greatest service to the greatest number of the citizenship of the county, looking at all times to the entire county as a unit and wholly disregarding precinct lines.

Adoption and alteration of master plan

Sec. 8. The Commissioners Court shall, when said "Master Plan" is submitted to them for adoption, or if after adoption an amendment or change thereto shall be deemed advisable, set a date at a regular meeting of the Commissioners Court called for that purpose, and give public notice thereof at least two (2) weeks in advance of such meeting and the purpose thereof, inviting the citizenship of the county to be present and protest any part of said "Master Plan" and also to make such suggestions as they deem pertinent in connection with same, or any change therein, but the decision of the Commissioners Court shall become and be final and conclusive as to said "Master Plan", and no succeeding Commissioners Court shall have the power or authority to alter and/or change or amend any of the provisions thereof except by unanimous vote of the Commissioners Court. Provided, that where such "Master Plan" has once been adopted, there shall be no necessity to repeat the same in absence of public necessity therefor, but same may be amended and altered when public necessity therefor is shown, and after notice is given as hereinabove provided.

Subdivisions and additions

Sec. 9. Many subdivisions and additions, for residential, industrial and commercial purposes, lying and being outside the corporate limits of any city, town or village, have in recent years been platted and such plats and dedications approved by Commissioners Courts and filed for record in such counties. And many more such subdivisions will hereafter be prepared and submitted to Commissioners Courts of said counties. The platting and dedicating of such additions and the consequent sale of lots in such subdivisions have caused the rapid development of such subdivisions and consequent increase of traffic in, on and along the dedicated streets in said additions and subdivisions, and it shall be the duty of the county engineer and the Commissioners Court to cause the "Master Plan" to be conformed to such needs and demands of such subdivision by constructing adequate highways leading from such subdivisions to the county seat, provided that from and after the passage of this Act the Commissioners Court, before approving the plat or plan of any subdivision lying outside the corporate limits of any city, town or village, as required by Article 6626 of the Revised Civil Statutes of the State of Texas, 1925, as amended, shall require such subdivider to enter into a written contract and agreement with the county that such subdivider or dedicator will grade, and gravel, all streets and provide all necessary drainage structures within such tract of land so subdivided. Such street improvements and drainage structures shall be in accordance with standard plans and specifications prepared by the county engineer. Such contract shall be for the benefit of any person or persons, firm or corporation who may thereafter acquire by purchase or otherwise any lot or lots in said addition or subdivision, and the faithful performance of said contract as to the initial improvements of said streets shall be deemed a part of the consideration paid for said lot and be read into the contract of sale of same, and such contract shall be enforceable at the instance, and suit if necessary, of the owner or owners of any of said lot or lots in a given

subdivision suing singly or as a group or class. After such initial street improvements have been completed in accordance with such plans, said streets then become and remain a part of the county road system and shall be maintained by the county unless and until included within the corporate limits of some city, town or village capable of maintaining its own streets.

Payment of employees

Sec. 10. It shall be the duty of the county auditor to compute the pay for all employees under the court's supervision from time sheets furnished him by the engineer, and no check or warrant shall be issued in favor of any such employee without the approval of such auditor. It shall be the duty of said auditor to see that no employee is paid for time not actually served by such employees and to this end he shall have authority, and it is hereby made his duty, at such time or times as he deems advisable, to check any or all of such employees while they are actually engaged in work. Nothing in this Act, however, shall be construed as repealing or being in conflict with the provisions of Article 2372g—1, Vernon's Revised Statutes of 1925.

Special counsel

Sec. 11. The Commissioners Court shall have the authority to employ special counsel, learned in the law, to advise the court or the Commissioners thereof in all matters wherein the services of counsel may be required, and also to conduct the litigation of the county in which the interests of the county may be involved, which employment may be made for such time and on such terms as the Commissioners Court may deem proper and expedient.

Surveys, plans and specifications; grading; drainage; culverts and bridges

Sec. 12. Before actual construction shall have begun on any road or highway so to be improved, the county engineer, under the direction of the Commissioners Court, shall make careful and accurate surveys of the roads and highways to be improved, and shall file with the records of the courts plans and specifications and estimates as to the cost thereof. Provided, that the provisions of this Section shall not apply to work done by county convicts. As far as practicable, all such roads shall be thoroughly graded and drained, and all roadbeds, bridges, culverts and drain pipes shall be of durable material, the bridges to be of steel or cement and the drain pipes of vitrified clay or of material equally durable and lasting. All culverts and bridges on first and second-class roads shall not be less than twenty-four (24) feet in length and of sufficient strength to support all forms of motor traffic, and the weight of all farm and road engines.

Acquisition of land; condemnation

Sec. 13. Whenever in the judgment of the Commissioners Court it shall be or become necessary to lay out and construct any road or highway in or through the county or any part thereof, whether said road extends through any city, town, village, hamlet, community or otherwise or whenever it shall be or become necessary in the judgment of the Commissioners Court to occupy any land, in town or county, for the purpose of constructing, building, opening, widening, straightening, draining, grading, improving, repairing or maintaining any public road or highway of said counties or any part thereof, said court, through the agents and employees of the county may enter upon, occupy and take such land, paying therefor, if the owner thereof and said court can agree on the price thereof, as to the value of the land so taken and the amount of damage, if any

there be to the remainder, but if such owner and the Commissioners Court cannot agree with respect to such value or damage or both, then said county may proceed to condemn such land for any of the purposes hereinabove mentioned in the same manner as now or may hereafter be prescribed by law for condemnation by railroad corporations and may condemn land for right of way under such proceeding with a right to invoke the Statutes, in so far as the same may be applicable for the exercise of the right of eminent domain by railroad corporations except that, in no case, shall the county be required to give bond or to deposit more than the amount assessed by the Commissioners in condemnation; provided however, that nothing contained in this Section shall be held to repeal the provisions of the General Law now in force or that may hereafter be passed relating to the opening or construction of public roads by a jury of view, but this Section shall be held to be cumulative thereof, and the Commissioners Court of said county may, at the option of said court, in such cases proceed under the provisions of such General Law or under the provisions of this Act according as same may be best adapted, in the judgment of said Commissioners Court, to expedite the relief sought to be obtained.

Drainage of railroad rights of way

Sec. 14. Whenever it shall be made to appear to the satisfaction of said Court that it is necessary for the better drainage of any public road or roads within said county that the ditches along the right of way of any railroad in the county should be emptied and drained, said court may, by an order entered upon its minutes at a regular or special term of the court, require any such railway whose ditches or borrow pits are so constructed or so out of repair as to impede the easy and rapid flow of water accumulating on, along or near its right of way to the nearest gully, ravine, creek, water course or outlet, and it shall be the duty of said railway in reference to which said order is made and entered within sixty (60) days after a certified copy of said order shall have been delivered to any general officer of such railway company or to any of its agents in said county to supply proper and sufficient drainage in the premises and within sixty (60) days thereafter to commence the work so ordered to be done and to continue such work with reasonable dispatch until its completion. In the event such railway company, its officers and agents shall fail to commence work within sixty (60) days from the date of service of a certified copy of such order, or having begun shall fail to finish the same within a reasonable time, the Commissioners Court may have such work performed, keeping an accurate account of the money expended upon said work, and said money so expended being reasonable in amount, may be recovered from the railway company along whose right of way said work was done at the suit of the county for the benefit of its road and bridge fund in any court of competent jurisdiction.

Payment of road taxes; overseers

Sec. 15. In such county the payment of road taxes by labor is abolished and all provisions of laws concerning overseers shall be of no further force or effect.

County commissioners; duties and compensation

Sec. 16. Each member of the Commissioners Court shall be and he is hereby required to devote all of his time (unless prevented by illness) to the duties of his office, and shall be in attendance at all sessions of the court. In addition thereto he shall personally inspect the conditions of the roads and bridges of the county, and shall see to it that employees un-

der the control of the Commissioners Court perform their full duties. Each member shall receive an annual salary as provided by the General Statutes of the State of Texas relating to the salaries of county commissioners in counties having a population which conforms to the population of the counties affected by this Act. Said salaries to be paid out of the road and bridge fund of the county.

Amount of road and bridge tax

Sec. 17. It shall be unlawful for said Commissioners Court to levy any road and bridge tax in excess of the maximum rate prescribed by law, and any member of said court who shall vote for such excessive levy, knowing it to be excessive, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$500).

Convict labor

Sec. 18. Said court may require all county convicts of said county, who may be physically able and not otherwise employed, to work on the public roads of said county under such rules and regulations as the court may prescribe, and each convict so worked shall receive a credit of Three Dollars (\$3) per day, one half of which shall be as nearly as practicable, applied to the fine, and one half to the court costs, provided that this shall not be so construed as to relieve a convict from the payment of all costs for which he would be liable under the General Laws of this State; said court may, as a reward for good behavior and faithful service, grant a reasonable commutation which shall in no case exceed one-tenth (1/10) of the whole time. Said court may provide all such houses, tents, clothing, bedding, food, medicine, medical attention, supplies and guards as it may deem necessary or proper for the safe and humane treatment and for the safe-keeping of such county convicts. Said court may also provide and enforce and such guards may, under the direction of said court and in accordance with its rules and regulations, administer such reasonable and humane punishment as may be necessary to require such convicts to perform good work. Said court may provide a reward, not exceeding Ten Dollars (\$10) in any instance, to be paid out of the road and bridge fund for the capture and delivery of an escaped convict, but no such reward shall be paid to any guard or persons in charge of or assisting such convict at the time of his escape.

Bond issues; resolution; election

Sec. 19. Whenever the Commissioners Court shall deem it necessary or expedient to build, construct, improve, repair or maintain first or second-class roads of a permanent nature with the proceeds of the sale of bonds issued for road and bridge purposes under the terms of this Act, said court, shall at any regular meeting pass and record in its minutes a resolution setting forth that it is the sense of said court that public roads and bridges of a permanent nature should be built, constructed, improved, repaired or maintained and that the county should issue its bonds to raise money for that purpose in an amount to be named in such resolution, and said resolution shall be submitted to the vote of the property-owning, qualified voters of the county under the law and the Constitution at any regular or special election which the court may order for that purpose, and if at such election a majority of the votes cast shall be for such resolution, then the same shall be deemed to be adopted; otherwise it shall be deemed to be rejected. Such election shall be governed in all respects by the laws governing elections in this State, save that the time for holding such elections, the manner and kind of notice shall be fixed by the

Commissioners Court, and the returns shall be made and canvassed in the same manner and the result declared by proclamation of the county judge, which proclamation shall be posted in at least three (3) public places in the county, or at the option of the court published one time in a daily newspaper of general circulation in the county.

Qualifications of voters; ballots

Sec. 20. No person shall be permitted to vote at any election provided for in the next preceding Section of this Act unless he is a property owner, taxpayer, who has duly rendered his property for taxation, and a qualified voter of the county under the law and Constitution of Texas. Those desiring to vote for the resolution shall have written or printed on their ballot the words "FOR the Resolution to issue bonds to _____" and those desiring to vote against the resolution shall have written or printed on their ballots the following: "AGAINST the Resolution to issue bonds to _____" (here insert such purpose of the proposed bond issue as set forth in said resolution). Such ballots shall be written or printed on plain white paper with black ink and shall contain no distinguishing mark or device except as above provided, and if printed, shall be in type of uniform size and face.

Preparation and execution of bonds; terms of bonds; registration and enrollment; sale or negotiation; tax levy

Sec. 21. If, at the election hereinabove provided for, a majority of the property-owning qualified voters, under the Constitution and Laws of the State, shall vote in favor of the resolution hereinbefore provided for and the Commissioners Court shall have canvassed the vote and declared the result, and proclamation therefor has been made by the county judge or publication made in lieu thereof, declaring said result, then it shall be the duty of said court to prepare and execute the bonds of the county in such sums as may be deemed advisable by the court, not exceeding the amount authorized at the election, said bonds to bear interest at not exceeding five per cent (5%) per annum, payable annually or semi-annually as the courts shall direct, which bonds shall be redeemable or payable not more than forty (40) years from date thereof, and at such intermediate periods, serially or otherwise as the court may direct, the time of maturity to be expressed on the face of the bonds and such bonds shall be registered or enrolled as in case of other county bonds, and the same shall not be sold or negotiated at less than their par value; provided, however, that the tax levy for the payment of interest and principal on any issue of bonds under the terms of this Act shall not exceed in any one case the sum of Fifteen Cents (15¢) on the One Hundred Dollars (\$100) property valuation, and the amount of bonds so to be issued shall be limited accordingly; provided further, that nothing in this language or in the terms of this Act shall be held to impair the right of the county to issue bonds under the provisions of Article 3 of Section 52 of the State Constitution and the Statutes enacted pursuant thereof.

Levy of tax; use of tax and bond proceeds

Sec. 22. At or prior to the issuance of said bonds, it shall be the duty of said Commissioners Court to levy an annual ad valorem tax on all property within the county liable to taxation, sufficient to provide for the interest on such bonds and to create a sinking fund for the payment of the principal thereof at the maturity of same. Such tax and the levy thereof may vary or lessen accordingly as assessed taxable values

may increase or diminish from year to year. The fund arising from such tax and the levy thereof shall not be used for any other purpose than that for which it was created, and the proceeds of the sale of such bonds shall be confined strictly for the purpose for which they were issued and for all necessary and incidental expense incurred in the issuance and sale thereof. It shall be unlawful for said court to transfer any money or fund from the road and bridge fund to any other purpose, except as outlined in Section 15 of this Act, than the laying out, opening, widening, draining, constructing, building, repairing and maintaining the public roads of said counties and the incidental and necessary expense growing out of the issuance of said bonds and the sale thereof.

Account and disbursement of bond proceeds

Sec. 23. It shall be the duty of the county treasurer to keep a separate account of all moneys received from the sale of bonds of said county issued for road and bridge purposes, and said treasurer shall pay out none of it except on written order or warrant of said court, specifying the contract against which it is drawn or for the purpose for which it is expended.

Contracts; alternative methods; record of cost

Sec. 24. Except as otherwise provided in this Act, no contract requiring the expenditure of money derived from the sale of bonds authorized by this Act shall be made until said county engineer shall have made and filed with the Commissioners Court maps, profiles, plans, specifications, and estimates of the work to be done under such contract and not until said court shall have considered the same and ordered it of record. Provided, however, that in the event said court shall have advertised for and rejected bids, it may in its discretion proceed to do the work mentioned in said advertisement. In the expenditure of road funds other than moneys derived from the sale of bonds, the Commissioners Court may authorize the building, construction and repair of roads by contract, day labor or convict labor as said court may deem to be for the best interest of the county. In every instance where the court chooses to do so under the terms of this Act to build, improve, repair or maintain roads by having the work done by the county, then the county must keep a careful and accurate record of the cost of the work, provided the work referred to in this Section shall be done under the direction of the county engineer in harmony with the other provisions of this Act.

Purchase of equipment and material

Sec. 25. Any and all tools, implements, machinery, material and supplies which may be purchased from the second-class road and bridge fund by the court under its direction shall be purchased only after competitive bid therefor shall have been invited by the court, and then only from the lowest responsible bidder, with the right on the part of the court to reject any and all bids and call for other competitive bids thereon; provided, however, bridge lumber, corrugated iron pipe for culverts, road surfacing materials, cement, gasoline, oil, groceries, convict supplies and other materials in regular or constant use may be purchased in carload or other practical large lots under competitive bidding as herein stipulated.

**Advertisements and bids; bond of successful bidder;
withholding percentage of estimates**

Sec. 26. Whenever, pursuant to the provisions of this Act, said court shall desire to make a purchase or let a contract for which competitive

bids are required under the terms of this Act, said court or the county auditor under its direction, may advertise for bids therefor in such manner and for such length of time as the order of the court may prescribe with the right on the part of the court in every case to reject any and all bids; the advertisement for bids shall be made by either posting same or by publication in such manner and for such length of time as the court may direct; provided, however, that this shall not be held to invalidate or prevent purchases, without competitive bids under the terms of the next preceding Section hereof. Whenever any such contract is let in which competitive bids are required, the successful bidder or contractor shall enter into a bond in a sum not less than the amount of the contract with a surety company authorized to do business in Texas thereon, payable to the county judge or his successors in office, in trust for the use and benefit of the road and bridge fund of said counties, to be approved by the court and conditioned for the faithful performance of said contract and upon such other conditions as the court may require. In no event shall such contract be or become effective until the bond herein required shall have been filed and approved by the court. Provided, further, that during the progress of such work, the court in allowing estimates on the contract shall withhold fifteen per cent (15%) of each estimate until the work shall have been entirely completed and is accepted by the county engineer and by the Commissioners Court.

Transfers to road and bridge fund

Sec. 27. The Commissioners Court is authorized and empowered, whenever and in such manner as it may determine, to transfer to and make a part of the road and bridge fund of said county any money now in the county, to pay interest and create a sinking fund for any bonds of said county heretofore issued and which have now been retired and cancelled. Such money so transferred to the road and bridge fund may be expended by the Commissioners Court at their discretion in constructing or repairing any of the first-class or cross roads of the county, such expenditures to be made in compliance with the provisions and requirements of this Act.

Record of vote on expenditures

Sec. 28. The records of the Commissioners Court shall show in detail every vote for expenditure of any of the funds mentioned in this Act.

Shade trees; signboards or signposts

Sec. 29. The Commissioners Court may, where funds are available for that purpose, plant shade trees along the side of the public roads; the Commissioners Court may protect all shade trees along the side of said thoroughfares and erect, place and keep a substantial signboard or signpost at every point where a public road forks or is intersected by another public road and such signboard or signpost shall contain a legible inscription directing the way and giving the distance of the next important place on such highway. Any person who shall willfully remove, injure, deface or mutilate or injure the growth of any shade tree along the side of a public road or any signboard or signpost thereon or thereabouts shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100).

Financial interest of members of commissioners court; violations of act

Sec. 30. It shall be unlawful for any member of the Commissioners Court or for any county officer to be or become financially interested,

directly or indirectly, in any contract with said county for road work or for the purchase or sale of any material or supplies of any character or in any transaction whatsoever in connection with any of the roads of said county, excepting only his own salary, fees or per diem. If any such county commissioner or such county officer shall willfully violate any of the foregoing provisions of this Section, he shall be punished by a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000) or by imprisonment in the county jail of said county for not more than one (1) year or by both such fine and imprisonment and in addition thereto shall be forthwith removed from office as provided for by General Law. If any member of said Commissioners Court or any such officer shall willfully violate any of the other provisions of this Act, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment in the county jail of said county for not more than six (6) months or by both such fine and imprisonment.

Fines and moneys collected applied to road and bridge fund

Sec. 31. All fines for any and all violations of any of the provisions of this Act and any and all moneys which may be collected by or on behalf of said county, on, under, or by virtue of any contract which may be executed under the provisions of this Act shall be applied to the road and bridge fund of said county.

Definitions

Sec. 32. The terms "Road" and "Highway" as used in this Act shall be held to include bridges, viaducts, causeways, culverts, roadbeds, ditches, drains and every part of a road or highway as such terms are commonly understood whether herein specified or not.

Judicial notice of law

Sec. 33. This Act is and shall be held and construed to be a public act of which the court shall take cognizance without proof thereof, and in any court proceedings wherein the provisions of this Act are drawn in question, the necessity for pleadings or proving same is hereby dispensed with.

Law cumulative; conflict or inconsistency

Sec. 34. 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 or inconsistent herewith, but in case of such conflict or inconsistency in whole or in part, this Act shall control said county.

Partial invalidity

Sec. 35. If any section, subdivision, paragraph, sentence, clause or word of this Act shall be held to be unconstitutional, the remaining portions of same shall, nevertheless, be valid and it is declared that such remaining portions would have been included in this Act though the unconstitutional portion had been omitted. Acts 1951, 52nd Leg., p. 471, ch. 299.

Emergency. Effective May 22, 1951.
Section 36 of the Act of 1951 repealed con-

flicting or inconsistent laws or parts of laws.

TITLE 117—SALARIES

Art.

6819a—6. [New repealed].

6819a—7. Additional compensation of district judges in judicial districts of five counties, two of which have two or more district courts [New].

Art.

6819a—8. Salaries of district court judges in counties of 225,000 to 390,000 with four civil district courts and two criminal district courts [New].

6819a—9. Salaries of justices and judges [New].

Art. 6813. Enumeration

Temporary act

Acts 1951, 51st Leg., p. 811, ch. 455, §§ 1, 2, read as follows:

"Section 1. The salaries of all State Officers and all State employees, except those Constitutional State Officers whose salaries are specifically fixed by the Constitution, and except the salaries of the District Judges and other compensation of District Judges shall be, for the period beginning September 1, 1951, and ending August 31, 1953, in such sums or amounts as may be provided for by the Legislature in the general appropriation bills. It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of court fees and receipts, to be paid to the Clerks and other employees of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals.

"Sec. 2. All laws and parts of laws fixing the salaries of all State Officers and employees, except those Constitutional State Officers whose salaries are specifically fixed by the Constitution and except the salaries of the District Judges and other compensation of District Judges are hereby specifically suspended insofar as they are in conflict with this Act. It is specifically declared to be one of the intents hereof that any and all laws authorizing payment of supplemental salaries from court receipts and fees to Clerks and other employees of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals are suspended insofar as they are in conflict with this Act."

Effective 90 days after June 8, 1951, date of adjournment.

Assistant Adjutant General, see art. 5796a.

Art. 6819a. Repealed. Acts 1947, 50th Leg., p. 54, ch. 42, § 2.

Not repealed by amendment to law relating to county juvenile board, see note to art. 5139.

Art. 6819a—3. Additional compensation of judges of district court; counties of 159,000 to 600,000; counties on international boundary

Section 1. In all counties in this State having a population of not less than one hundred fifty-nine thousand (159,000) nor more than six hundred thousand (600,000) inhabitants, according to the last preceding or any future Federal Census, the Judges of the several District Courts and Criminal District Courts shall each receive annually, payable in monthly installments, the sum of Two Thousand, Nine Hundred (\$2,900.00) Dollars to be paid by said counties out of the General Fund thereof, as compensation for all judicial and administrative services now rendered by them, and any additional judicial and administrative services hereafter to be assigned to them, in addition to all salary paid or hereafter to be paid to them by the State of Texas out of State revenues.

Sec. 2. It is expressly declared that nothing in this Act shall be construed to repeal all or any part of Article 5139, Revised Civil Statutes of Texas of 1925, as amended, or Article 5142a, Civil Statutes of Texas, as amended by Chapter 27, Acts 51st Legislature, 1949, or Article 5142b, Civil Statutes of Texas, as amended by Chapters 66 and 339, Acts 51st Legislature 1949, except insofar as the same now apply to counties having a population of not less than one hundred fifty-nine thousand (159,-

000) nor more than six hundred thousand (600,000) inhabitants, according to the last preceding or any future Federal Census; provided, however, that the several Judges of the District Courts and Criminal District Courts in said counties shall not receive any salary as provided in Article 5139, Revised Civil Statutes of Texas of 1925, with amendments thereto, or under Article 5142a, Civil Statutes of Texas as amended by Chapter 27, Acts 51st Legislature, 1949, or under Article 5142b, Civil Statutes of Texas, as amended by Chapters 66 and 339, Acts 51st Legislature, 1949, for any month wherein they shall have received the salary herein provided to be paid out of the General Fund of said counties; and provided further, that no District Judge in counties having a population of not less than one hundred fifty-nine thousand (159,000) nor more than six hundred thousand (600,000) inhabitants, shall receive from any county funds as supplemental pay to his salary from the State, a sum in excess of Two Thousand, Nine Hundred (\$2,900.00) Dollars per annum from the county for judicial and administrative duties assigned to them.

Sec. 2A. In all counties in this State bordering on the international boundary between Mexico and the United States and having a population of not less than fifty-five thousand (55,000) inhabitants according to the last preceding Federal Census, the Judge or Judges of the several District Courts and Criminal District Courts, as the case may be, may each receive annually, payable in monthly installments, the sum of Two Thousand, Nine Hundred (\$2,900.00) Dollars to be paid by the county having such population, out of the general fund thereof, as compensation for all judicial and administrative services, including those as members of the Juvenile Board of said counties, now rendered, and any additional judicial administrative services hereafter to be assigned to it or them, as the case may be, in addition to all salary paid or hereafter to be paid by the State of Texas out of the State revenues.

Sec. 3. If any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the Courts, it shall not affect the constitutionality or validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such section, or subsection, or clause so declared unconstitutional. As amended Acts 1951, 52nd Leg., p. 485, ch. 303.

The title of the Act of 1951 described it as an Act to amend the Act of 1945, but the body of the Act contained no amending provision. It however seems to be a substitute for the Act of 1945.

Compensation of judges in counties having eight or more courts, see, also, art. 6819a—5.

Art. 6819a—6. Repealed. Acts 1951, 52nd Leg., p. 669, ch. 386, § 2.
Eff. 90 days after June 8, 1951

Repealed article derived from Acts 1949, 51st Leg., p. 614, ch. 323, § 1.

Subsection (e) was also repealed to the extent it was inconsistent or repugnant by Acts 1951, 52nd Leg., p. 404, ch. 255, § 3.

Salaries of justices and judges of Supreme Court, Courts of Civil Appeals District Courts and Criminal District Courts, see art. 6819a—9.

Art. 6819a—7. Additional compensation of district judges in judicial districts of five counties, two of which have two or more district courts

Section 1. In every county in this State which comprises a part of a judicial district consisting of not less than five (5) counties, of which two (2) of said counties have two (2) or more district courts, the district judge, or district judges, may receive annually, payable in monthly installments, a salary to be fixed by the Commissioners Court of each county, to be paid by said county out of the general fund thereof, as com-

pensation for all judicial and administrative services now rendered by said judge, or judges, and any additional judicial and administrative services hereafter to be assigned to said judge, or judges, in addition to all salary paid or hereafter to be paid to said judge, or judges, by the State of Texas out of State revenues; provided, however, that the salary herein authorized to be paid by any county Commissioners Court to any judge shall not exceed the sum of One Thousand, Two Hundred Dollars (\$1,200) per annum; and provided that the total remuneration to be received by any judge under the provisions hereof shall not exceed the sum of Two Thousand, Nine Hundred Dollars (\$2,900) per annum.

Sec. 2. If any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the courts, it shall not affect the constitutionality or validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such section, or subsection, or clause so declared unconstitutional. Acts 1951, 52nd Leg., p. 394, ch. 252.

Emergency. Effective May 18, 1951.
Title of Act:

An Act providing for the fixing of compensation of judges of district courts in counties in this State which comprise a part of a judicial district consisting of not less than five (5) counties, of which two (2) of said counties have two (2) or

more district courts; providing the manner of payment; establishing a limitation of the amount of such compensation; providing for validity of remaining portion of Act if any part declared unconstitutional; and declaring an emergency. Acts 1951, 52nd Leg., p. 394, ch. 252.

Art. 6819a—8. Salaries of district court judges in counties of 225,000 to 390,000 with four civil district courts and two criminal district courts

Section 1. In all counties in this State having not less than four (4) Civil District Courts and two (2) Criminal District Courts and having a population of not less than two hundred and twenty-five thousand (225,000) inhabitants and not more than three hundred and ninety thousand (390,000) inhabitants according to the last preceding and any future Federal Census, general or special, the Judges of the several District Courts, Civil and Criminal, shall each receive annually, payable in monthly installments, the sum of Three Thousand, Nine Hundred Dollars (\$3,900) to be paid by said counties out of the General Fund thereof as compensation for all judicial and administrative services now rendered by them and any additional judicial and administrative services hereafter to be assigned to them, in addition to all salary paid or hereafter to be paid to them by the State of Texas out of State revenues.

Sec. 2. It is expressly declared that nothing in this Act shall be construed to repeal all or any part of Article 5139, Revised Civil Statutes of Texas of 1925 (as amended), or Article 5142-a, Section 1-a (as amended), in so far as the same now applies to counties having a population of not less than two hundred and twenty-five thousand (225,000) inhabitants and not more than three hundred and ninety thousand (390,000) inhabitants and having four (4) Civil District Courts and two (2) Criminal District Courts; providing, however, that the several Judges of the District Courts, Civil and Criminal, in said county or counties, shall not receive any salary as provided for under Article 5139, Revised Civil Statutes of Texas of 1925 (as amended), or under Article 5142-a, Section 1-a (as amended), for any month wherein they shall have received the salary herein provided to be paid out of the General Fund of said counties.

Sec. 4. If any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the Courts, it shall not affect the constitutionality or validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have

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

been passed without such section, or subsection, or clause so declared unconstitutional. Acts 1951, 52nd Leg., p. 404, ch. 255.

Effective 90 days after June 8, 1951, date of adjournment.

Section 3 of the Act of 1951 repealed conflicting laws and parts of laws and par-

ticularly subsection (e) of Art. 6819a—6, to the extent of the inconsistency or repugnancy.

Art. 6819a—9. Salaries of justices and judges

From and after August 31, 1951:

(a) The Justices of the Supreme Court of the State of Texas and the Judges and the Commissioners of the Court of Criminal Appeals shall each be paid an annual salary of Fifteen Thousand (\$15,000.00) Dollars;

(b) The Justices of the several Courts of Civil Appeals of the State of Texas shall each be paid an annual salary of Twelve Thousand (\$12,000.00) Dollars;

(c) The Judges of the several District Courts of the State of Texas and of the Criminal District Courts of this State shall each be paid an annual salary of Nine Thousand (\$9,000.00) Dollars;

(d) The salaries of all of the Justices and Judges in this section shall be paid in equal monthly installments. Acts 1951, 52nd Leg., p. 669, ch. 386, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the Act of 1951 repealed article 6819a—6, and all conflicting laws and parts of laws. Section 3 read as follows: "If any section, subsection or paragraph of this Act be held invalid or unconstitutional, such invalidity shall not be held to affect the validity or constitutionality of any other section, subsection or paragraph of this Act."

Title of Act:

An Act providing for and fixing the sal-

aries of the Justices of the Supreme Court, the Judges and the Commissioners of the Court of Criminal Appeals, the Justices of the Courts of Civil Appeals, and the Judges of the District Courts and of the Criminal District Courts of the State of Texas; repealing House Bill No. 207, Chapter 328, page 614, Acts, 51st Legislature, and all laws and parts of laws in conflict with this Act; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 669, ch. 386.

TITLE 118—SEAWALLS

Art.
6839f. Cooperation and contracts with
United States or agencies there-
of [New].

Art. 6839f. Cooperation and contracts with United States or agencies thereof

Section 1. In addition to the powers heretofore granted by law, the county commissioners courts of all counties and the municipal authorities of all cities, bordering on the Coast of the Gulf of Mexico, shall have the power and are authorized to cooperate with and contract with the United States of America or with any agency thereof, for grants, loans or advancements to carry out any of the powers or to further any of the purposes set forth in Title 118 of the Revised Civil Statutes of Texas and to receive and use said moneys for such purposes; or to contribute and pay over to the United States of America or any of its agencies all or any part of the proceeds of sale of any bonds, issued and sold by said counties or cities under said Title 118, in connection with any project undertaken by the Federal Government affecting or relating to the construction or maintenance of such sea wall, boulevard, and other projects authorized under said Title 118.

Sec. 2. It is the purpose and intent of this Act to confer upon counties and municipal authorities of all cities bordering on the Coast of the Gulf of Mexico interested in sea-wall projects and other projects enumerated in said Title 118, when approved by the Government of the United States by Act of Congress, the fullest possible power of contract with regard to such projects of common interest.

Sec. 3. If any section, word, phrase, clause, or sentence in this Act shall be declared unconstitutional for any reason, the remainder of this Act shall not be affected thereby. Acts 1951, 52nd Leg., p. 131, ch. 80.

Emergency. Effective April 25, 1951.

TITLE 120—SHERIFFS AND CONSTABLES

2. CONSTABLES

Art.
6889c. Transportation or automobile allow-
ance; counties of 20,000 or over
[New].

2. CONSTABLES

Art. 6889c. Transportation or automobile allowance; counties of 20,000
or over

Section 1. The County Commissioners Courts of this State are hereby authorized to supply or pay for transportation of constables and deputy constables of the respective counties and justice precincts to and from points within this State, under one of the four following subsections:

(a) Constables and deputy constables may be furnished adequate motor transportation including all expense incidental to the upkeep and operation of such motor vehicles.

(b) Motor vehicles may be furnished to constables and deputy constables who may furnish gas and oil, wash and grease, incidental to the operation of such vehicles; for which gas and oil, wash and grease, such constables and deputy constables shall be compensated at a rate not to exceed four cents (4¢) per mile for each mile such vehicle is operated in the performance of the duties of his or their office.

(c) County Commissioners Courts may allow constables and deputy constables in the respective counties and justice precincts to use and operate cars on official business personally owned by them for which such officers shall be paid not less than six cents (6¢) per mile nor more than ten cents (10¢) for each mile traveled in the performance of official duties of their office.

(d) All compensation paid under the provisions of this Act shall be upon a sworn statement of such constable or deputy constable.

(e) This Act shall not apply to counties having a population of less than twenty thousand (20,000) people.

Sec. 2. If any section, subsection, paragraph, sentence or portion of this Act 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 enacted such remaining portions despite such invalidity. Acts 1951, 52nd Leg., p. 424, ch. 264.

Effective 90 days after June 8, 1951, date of adjournment.

Section 3 of the Act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act authorizing County Commissioners Courts to compensate constables and deputy constables for transportation or furnish adequate transportation within the

State; providing for sworn statements covering such transportation; providing this Act shall not apply to counties having a population of less than twenty thousand (20,000) people; providing that this Act shall be severable; repealing all laws in conflict with this Act; and declaring an emergency. Acts 1951, 52nd Leg., p. 424, ch. 264.

TITLE 120A—STATE AND NATIONAL DEFENSE

COMMUNISM [NEW]

- Art.
6889—3. Texas Communist Control Law.
6889—4. Civil Protection Act [New].

- Art.
6889—5. Interstate civil defense and disaster compact [New].

COMMUNISM

Art. 6889—3. Texas Communist Control Law

Communist defined

Section 1. A "Communist" is a person who:

(A) Is a member of the Communist Party, notwithstanding the fact that he may not pay dues to, or hold a card in, said Party; or

(B) Knowingly contributes funds or any character of property to the Communist Party; or

(C) Commits or advocates the commission of any act reasonably calculated to further the overthrow of the Government of the United States of America, the Government of the State of Texas, or the government of any political subdivision of either of them, by force or violence; or

(D) Commits or advocates the commission of any act reasonably calculated to further the overthrow of the Government of the United States, the Government of the State of Texas, or the government of any political subdivision of either of them, by unlawful or unconstitutional means, and the substitution of a Communist government or a government intended to be substantially directed, dominated or controlled by the Union of Soviet Socialist Republics or its satellites.

Communist Party defined

Sec. 2. The "Communist Party" is any organization which is substantially directed, dominated or controlled by the Union of Soviet Socialist Republics or its satellites, or which in any manner advocates, or acts to further, the world Communist movement.

Communist Front Organization defined

Sec. 3. A "Communist Front Organization" is any organization the members of which are not all Communists, but which is substantially directed, dominated or controlled by Communists or by the Communist Party, or which in any manner advocates, or acts to further, the world Communist movement.

Registration

Sec. 4. (A) Each person remaining in this State for as many as five (5) consecutive days after the effective date of this Statute, who is a Communist or is knowingly a member of a Communist Front Organization, shall register with the Department of Public Safety of the State of Texas on or before the fifth consecutive day that such person remains in this State; and, so long as he remains in this State, shall reregister annually with said Department between the first and fifteenth days of January.

(B) Such registration shall be under oath and shall set forth the name (including any assumed name used or in use), address, business occupation, purpose of presence in the State of Texas, sources of income, place of birth, places of former residence, and features of identification, including fingerprints, of the registrant; organizations of which registrant

is a member; names of persons known by registrant to be Communists or members of any Communist Front Organization; and any other information requested by the Department of Public Safety which is relevant to the purposes of this Statute.

(C) Each and every officer of the Communist Party and each and every officer of Communist Front Organizations, knowing said Organizations to be Communist Front Organizations, shall register or cause to be registered said Party or Organizations with the Department of Public Safety, if said Party or Organizations have any members who reside, permanently or for a period of time more than thirty (30) days, in the State of Texas. Such registration shall be under oath and shall include the name of the organization, the location of its principal office and of its offices and meeting places in the State of Texas; the names, real and assumed, of its officers; the names, real and assumed, of its members in the State of Texas and of any person who has attended its meetings in the State of Texas; a financial statement reflecting receipts and disbursements and by whom and to whom paid; and any other information requested by the Department of Public Safety which is relevant to the purposes of this Statute. Such registration shall be made within thirty (30) days after the effective date of this Statute, and thereafter at such intervals as are directed by the Department of Public Safety.

(D) Failure to register as herein required, or the making of any registration which contains any material false statement or omission, shall constitute a felony and shall be punishable by a fine of not less than One Thousand Dollars (\$1,000) or more than Ten Thousand Dollars (\$10,000), or by imprisonment of not less than two (2) or more than ten (10) years, or by both.

(E) Under order of any court of record, the registration records shall be open for inspection by any person in whose favor such order is granted; and the records shall at all times, without the need for a court order, be open for inspection by any law enforcement officer of this State, of the United States or of any State or Territory of the United States. At the discretion of the Department of Public Safety, such records may also be open for inspection by the general public or by any member thereof.

Sabotage

Sec. 5. It shall be a felony, punishable by a term in the penitentiary of not less than two (2) nor more than twenty (20) years for any person, with the intent to injure the United States, the State of Texas, or any facilities or property used for national defense, to sabotage or destroy, or to attempt to sabotage or destroy, any property, facility or service that is being used or is to be used in connection with national defense. Should any loss of life occur by reason of such sabotage or destruction, or by reason of any attempted sabotage or destruction of such character, the person committing or attempting to commit same shall be guilty of murder with malice aforethought and shall be punished by death, or by confinement in the penitentiary for life or for any term of years not less than two (2). The word "sabotage" as used herein means the wilful and malicious infliction of physical damage or injury to property. The penalty herein provided shall be cumulative of all other penalties which might be imposed by virtue of the fact that the acts constituting an offense under this Statute also constitute separate offenses under other laws of this State.

Elections

Sec. 6. The name of any Communist or of any nominee of the Communist Party shall not be printed upon any ballot used in any primary or general election in this State or in any political subdivision thereof.

Public office

Sec. 7. No person may hold any nonelective position, job or office for the State of Texas, or any political subdivision thereof, where the remuneration of said position, job or office is paid in whole or in part by public moneys or funds of the State of Texas, or of any political subdivision thereof, where reasonable grounds exist, on all of the evidence, for the employer or other superior of such person to believe that such person is a Communist or a knowing member of a Communist Front Organization.

Enforcement

Sec. 8. The Attorney General of the State of Texas, all District and County Attorneys, the Department of Public Safety, and all law enforcement officers of this State shall each be charged with the duty of enforcing the provisions of this Statute.

Partial unconstitutionality

Sec. 9. If any section, subparagraph, sentence, phrase, part or application of this Statute shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining portions hereof, and the Legislature here declares that it would have enacted such remaining portions notwithstanding any holding of unconstitutionality with respect to any other portions of this Statute.

Cumulative character

Sec. 10. This Statute is cumulative of all existing laws and does not repeal any such laws.

Short title

Sec. 11. This Act may be cited as the "Texas Communist Control Law." Acts 1951, 52nd Leg., p. 10, ch. 8.

Emergency. Effective Feb. 27, 1951.

The Act contained the following preamble: "There exists a world Communist movement, directed by the Union of Soviet Socialist Republics and its satellites, which has as its declared objective world control. Such world control is to be brought about by aggression, force and violence, such as is now occurring in the Republic of Korea, and is to be accomplished in large part by infiltrating tactics involving the use of fraud, espionage, sabotage, terrorism and treachery. Since the State of Texas is the location of many of the Nation's largest and most vital military establishments, and since it is a producer of many of the most essential products for national defense, the

State of Texas is a most probable target for those who seek by force and violence to overthrow Constitutional Government, and is in imminent danger of Communist espionage and sabotage. Communist control of a country is characterized by an absolute denial of the right of self-government and by the abolition of those personal liberties which are cherished and held sacred in the State of Texas and in the United States of America. The world Communist movement, temporarily halted by American dead, constitutes a clear and present danger to the citizens of the State of Texas. Therefore,"

Art. 6889—4. Civil Protection Act**Citation of act**

Section 1. This Act may be cited as the "Texas Civil Protection Act of 1951."

General duties and powers of Governor; state Defense and Disaster Relief Council

Sec. 2. The Governor shall provide for the organization and coordination of a program of civil defense and disaster relief adequate to protect life and property in this State in case of natural disaster, enemy action, or the threat thereof.

He may establish by executive proclamation a State Defense and Disaster Relief Council, consisting of the representatives of such State agen-

cies, departments, and institutions of the State whose legal functions relate to important phases of this activity and representatives of public or quasi-public relief organizations, and who may be designated by the Governor.

Directives and executive orders

Sec. 3. The Governor, or upon his designation, the State Defense and Disaster Relief Council, may issue, within the limits of constitutional power, such directives and executive orders as may be necessary to effectuate the purpose of this Act, which directives shall be filed in the office of the Secretary of State and shall receive widespread publicity and notice unless such notice will be of aid and comfort to the enemy.

Specific powers of Governor or Council

Sec. 4. The Governor, or upon his designation, the State Defense and Disaster Relief Council, is further authorized and empowered:

(a) To negotiate with other States of the United States and with States of the United Mexican States, subject to approval of appropriate authorities of the Federal government, mutual aid compacts for civil defense and disaster relief;

(b) To provide for the organization and operation of Mobile Support Units for use by him in dispatching outside aid to stricken areas;

(c) To coordinate the negotiation of civil defense mutual aid agreements between political subdivisions of the State and to direct, if necessary, the coordination of civil defense activity under such agreements;

(d) Through appropriate State agencies and State Disaster District Control Centers to direct evacuation plans and operations;

(e) To prescribe uniform signals, warnings, alerts, credentials, insignia, and civil defense operational plans throughout the State and to provide for dim outs or other precautionary measures deemed necessary to prevent or minimize loss of life or injury to persons or property from enemy action or other catastrophe or the threat thereof;

(f) To assist in providing for adequate local defense organizations under the authority of duly constituted local officials.

Acceptance of gifts, grants or loans

Sec. 5. Whenever the Federal government or any other public or private agency or individual may offer to the State, or through the State to any political subdivision thereof services, equipment, supplies, materials or funds as gifts, grants, or loans for purposes of civil defense, the State, acting through the Governor, if required by the donor, and the political subdivision through its executive officer or governing body, may accept such offer in behalf of the State, or its political subdivision.

Powers of political subdivisions

Sec. 6. Each political subdivision shall have the power to provide, by ordinances or otherwise, for a local civil defense organization, and said subdivisions shall have power to make appropriations for civil defense and disaster relief in the manner provided by law for making appropriations for ordinary expenses of such political subdivision and shall have power to enter into agreements for the purpose of organizing civil defense units; to provide for a mutual method of financing the organization of such units on a basis satisfactory to said political subdivisions and shall have power to render aid to other subdivisions under mutual aid agreements, provided that the functioning of said units shall be coordinated by the State Defense and Disaster Relief Council. For the payment of the cost of any equipment, or the construction, or acquisition, or any improvements for

carrying out the provisions of this Act, counties, incorporated cities and towns, including home rule cities, may issue time warrants, such time warrants to be issued in accordance with the provision of House Bill No. 312, Acts, Forty-second Legislature, Regular Session, 1931, Chapter 163, page 269, as amended¹; provided that time warrants shall not be issued for financing permanent construction or improvements for civil defense purposes except upon the right of a referendum vote as provided in Section 4 of House Bill No. 312, Acts, Forty-second Legislature, Regular Session, 1931, Chapter 163, page 269, as amended².

¹ Article 2368a.

² Article 2368a, § 4.

Exemption from liability for death or injuries

Sec. 7. Neither the State nor any political subdivision thereof, nor other agencies, nor the agents, employees, or representatives of any of them, engaged in any civil defense activities, while complying with or attempting to comply with this Act or any rule or regulation promulgated pursuant to the provisions of this Act, shall be liable for the death of or any injury to persons, or damage to property, as a result of such activity. The provisions of this Section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this Act, or under the Workmen's Compensation Law¹, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress.

¹ Article 8306 et seq.

Utilization of services, etc.; cooperation

Sec. 8. In carrying out the provisions of this Act, the Governor and the executive officers or governing bodies of the political subdivisions of the State are authorized to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the State and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the civil defense organization of the State upon request.

Execution and enforcement of orders, rules and regulations

Sec. 10. It shall be the duty of every organization for civil defense established pursuant to this Act and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the Governor and/or the State Defense and Disaster Relief Council, under authority of this Act.

Current appropriations; units of Texas militia

Sec. 11. It is further provided that all moneys currently appropriated to the Adjutant General's Department for support and maintenance of the Texas National Guard is authorized for like expenditures for the support and maintenance, including organization, of units of the Texas Militia supplementing the Texas National Guard or replacing National Guard units inducted into Federal service.

Partial invalidity

Sec. 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect with-

out the invalid provision or application, and to this end the provisions of this Act are declared to be severable. Acts 1951, 52nd Leg., p. 529, ch. 311.

Emergency. Effective June 1, 1951.

Section 9 of the Act of 1951 repealed conflicting laws or parts of laws.

Title of Act:

An Act relating to the development of a civil defense and disaster relief plan for this State and its political subdivisions; granting necessary powers to State and local governments of this State to cope with emergencies threatening life and property within the State; authorizing co-

operative and mutual aid agreements for relief work between this and other States; and for related purposes; and providing a means for financing of such program by counties, towns and cities; repealing all laws or parts of laws in conflict; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 529, ch. 311.

Art. 6889—5. Interstate civil defense and disaster compact

Section 1. Whereas the Congress of the United States of America has granted its consent to civil defense compacts by an Act entitled "Federal Civil Defense Act of 1950" (Public Law 920, Eighty-first Congress, 2nd Session, Approved January 12, 1951¹), the Legislature of this State hereby ratifies a compact on behalf of the State of Texas with any other state legally joining therein in the form substantially as follows:

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting States solemnly agree:

"Article 1. The purpose of this compact is to provide mutual aid among the States in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective States, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the States that are parties hereto. The Directors or Co-ordinators of Civil Defense of all party states shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

"Article 2. It shall be the duty of each party state to formulate civil defense plans and programs for application within such state. There shall be frequent consultation between the Representatives of the States and with the United States Government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs the party states shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party states;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

“Article 3. Any party state requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall extend to the civil defense forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges and immunities as if they were performing their duties in the state in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the civil defense authorities of the state receiving assistance.

“Article 4. Whenever any person holds a license, certificate or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party state to meet an emergency or disaster and such state shall give due recognition to such license, certificate or other permit as if issued in the state in which aid is rendered.

“Article 5. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

“Article 6. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that appropriate among other states party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or states. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

“Article 7. Each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

“Article 8. Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party

state without charge or cost; and provided further that any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs as among those states. The United States Government may relieve the party state receiving aid from any liability and reimburse the party state supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

"Article 9. Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party states and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, medical care, and burial services will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, medical care, and burial services. Such expenditures shall be reimbursed by the party state of which the evacuees are residents, or by the United States Government under plans approved by it. After the termination of the emergency or disaster the party state of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

"Article 10. This compact shall be available to any state, territory or possession of the United States, and the District of Columbia. The term 'state' may also include any neighboring foreign country or province or state thereof.

"Article 11. The committee established pursuant to Article 1 of this compact may request the Civil Defense Agency of the United States Government to act as an informational and co-ordinating body under this compact, and representatives of such agency of the United States Government may attend meetings of such committee.

"Article 12. This compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying and shall be subject to approval by Congress unless prior Congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Civil Defense Agency and other appropriate agencies of the United States Government.

"Article 13. This compact shall continue in force and remain binding on each party state until the Legislature or the Governor of such party state takes action to withdraw therefrom. Such action shall not be effective until ninety (90) days after notice thereof has been sent by the Governor of the party state desiring to withdraw to the Governors of all other party states.

"Article 14. This compact shall be construed to effectuate the purpose stated in Article 1, hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any persons or circumstance is held invalid, the constitutionality of the remainder of

this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

“Article 15. This compact shall become binding and obligatory when it shall have been signed by the Governors of the respective states enumerated in this compact; when it shall have been ratified by the Legislature of each state that requires ratification of said compact by the Legislature; and when ratified by the Congress of the United States. Failure of the United States Congress to ratify within sixty (60) days after transmittal, the consent shall be considered as granted. Notice of ratification by each of the states which are a party to this compact shall be given by the Governor of that state to the Governors of the other states and to the President of the United States, and the President is hereby requested to give notice to the Governor of each state of approval by the Congress of the United States.”

Sec. 2. Duly authenticated copies of this Act shall, upon its approval, be transmitted to the Governor of each state, to the President of the Senate of the United States, to the Speaker of the House of Representatives, to the Federal Civil Defense Administration, to the Secretary of State of the United States, and to the Council of State Governments. Acts 1951, 52nd Leg., p. 531, ch. 312.

1 50 U.S.C.A. Appendix, § 2251 et seq.

Emergency. Effective June 1, 1951.

Complimentary Laws:

Indiana, Laws 1951, ch. 186.

Montana, Laws 1951, ch. 213.

Title of Act:

An Act providing that the State of Texas may enter into a compact with any other state of the United States or of the United

Mexican States—with the consent and approval of the government of the United States—for mutual helpfulness in meeting any civil defense emergency or disaster; containing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 531, ch. 312.

TITLE 122—TAXATION

CHAPTER ONE—LEVY OF TAXES AND OCCUPATION TAXES

Art. 7047a—15a. Sealing of machines by city or county [New].	Art. 7057f. Occupation tax on business of gath- ering gas [New].
7048b. Contracts for accomplishment of plans and programs [New].	

Art. 7047. 7355, 5049 Occupation taxes

15. Money Lenders.—From every person, firm, association of persons, or corporation whose business is lending money as agent or agents for any corporation, firm or association, either in this State or out of it, an annual tax of One Hundred Fifty Dollars (\$150.00). Provided, that if an office is maintained in more than one county, the State tax shall be payable in each county where an office is maintained; and, provided, further, that this Tax shall not apply to persons, firms, or associations who lend money as an incident merely to the real estate business, nor shall said tax apply to banks, or banking institutions regularly organized as such. Acts 1897, 1st C.S., p. 49; Acts 1931, 42nd Leg., p. 355, ch. 212, § 1.

24. Circus and Shows.—From every person, firm, association of persons or corporation exhibiting performances such as a circus, managerie, wild west show, dog and/or pony show or show wherein broncho busting, rough riding, equestrian or acrobatic feats are performed, or any other show, exhibition or performance similar thereto, or any combination feats are performed, or any combination of any of the foregoing, for which admission fee is demanded or received for each day or part thereof on which performances or exhibitions are given, the following amount, respectively:

(a) Where such shows and/or exhibitions travel on railroads and require transportation of:

	Each Day
Not more than two (2) cars.....	\$ 25.00
Three (3) to five (5) cars, inclusive.....	40.00
Six (6) to ten (10) cars, inclusive.....	55.00
Eleven (11) to twenty (20) cars, inclusive.....	75.00
Twenty-one (21) to thirty (30) cars, inclusive.....	100.00
Thirty-one (31) cars and over.....	225.00

(b) Where such shows and/or exhibitions travel by automobile trucks, or other conveyances, and require transportation of:

	Each Day
Not over two (2) loads.....	\$ 10.00
Three (3) to five (5) loads, inclusive.....	15.00
Six (6) to ten (10) loads, inclusive.....	20.00
Eleven (11) to twenty (20) loads, inclusive.....	25.00
Twenty-one (21) to thirty-five (35) loads, inclusive.....	35.00
Thirty-six (36) to fifty (50) loads, inclusive.....	50.00
Over fifty (50) loads, per load in excess thereof.....	2.00

Every show or exhibition which advertises itself as being any of those described in this Section shall be held to be such for the purpose of levying and collecting the occupation tax herein provided; provided, however, that the tax levied herein shall not apply to any show, circus or exhibition not operated for private gain and the earnings and assets

thereof are devoted solely and exclusively to charitable, benevolent, religious or educational purposes. As amended Acts 1951, 52nd Leg., p. 451, ch. 278, § 1.

Emergency. Effective May 19, 1951.

40b. Occupation tax on sulphur producers.—Section 1. Sulphur Producers: Each person, firm, association, or corporation who owns, controls, manages, leases, or operates any sulphur mine, or mines, wells, or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller in this State, or if such person be other than individual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding, and at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date an amount equal to One Dollar and Forty Cents (\$1.40) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter.

Each person subject to the payment of this tax shall cause to be made, kept, and preserved a full and complete record of all sulphur produced in this State by it, all of which record shall be open at all times to official inspection and examination by the Comptroller or the Attorney General, or any employee of or representative of the Comptroller or the Attorney General. Said records may be destroyed after three (3) years from the last entry appearing in any such record. Any person failing to keep such record, or records, as herein required, shall forfeit to the State of Texas as a penalty any sum not less than Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000), payable to the State of Texas, and each ten (10) days of failure to keep such records shall constitute a separate offense and subject the offender to additional penalties for each such period of failure to keep such records. Any person subject to the payment of said tax on sulphur failing to pay the tax levied in this Article within thirty (30) days after same is due and payable shall pay to the State as a penalty an additional amount equal to ten per cent (10%) of the taxes due, and such tax and penalty shall draw interest at the rate of six per cent (6%) per annum from the due date until paid. The Attorney General or any district or county attorney at the direction of the Attorney General shall bring suit in behalf of the State to recover the amount of taxes, penalties, and interest past due and payable by any person affected by this law. The word "person" as used in this law shall include persons, firms, partnerships, companies, corporations, associations, common law trusts, or other concern by whatever name or howsoever organized, formed, or created.

The Comptroller may require such other information and such additional reports as he may deem advisable.

Said tax shall be in lieu of the tax imposed by Chapter 74, Acts, Fifth Called Session, Forty-first Legislature and House Bill No. 251, Chapter 212,¹ Section 1, Acts of the Regular Session of the Forty-second Legislature and by Acts, Forty-fourth Legislature, Third Called Session, Chapter 495, Article 4, Section 6,² and each and all of such Acts are hereby repealed, except as to the sulphur produced prior to the date this Act shall take effect, and the tax shall be paid on such sulphur so produced at the rate provided in such Act, and the taxes collected shall be allocated as therein provided, and all reports provided for in such Act shall be made to the Comptroller. No offense against, and no liability or penalty, either civil or criminal, incurred on account of a violation theretofore of any or

all of the provisions of such Acts or any amendments thereof, shall be discharged or affected by this Act, but prosecutions and suits shall be instituted and proceeded with in all respects as if such Acts had not been repealed herein; and the procedure prescribed in such Acts or in any other applicable existing laws shall be followed in all prosecutions and suits, now pending or hereafter instituted on account of such offenses, or liabilities. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § II.

¹ Article 7066a.

² Article 7047, sub. 40a.

41a. Cement Distributors.—(a) There is hereby imposed a tax of \$0.0275 on the one hundred (100) pounds, or fractional part thereof, of cement on every person in this State manufacturing or producing in and/or importing cement into this State, and who thereafter distributes, sells or uses the same in intrastate commerce. Said tax shall accrue on and is imposed on the first intrastate distribution, sale or use; provided, however, no tax shall be paid except on one sale, distribution or use. The person liable for said tax is hereby defined as a "distributor," and said tax is to be allocated as hereinafter provided. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XII.

46. Occupation tax on production of lamp black.—Section 1(a). There is hereby levied an occupation tax on every person, agent, receiver, trustee, firm, association, or copartnership manufacturing or producing carbon black in this State, such tax to be as follows:

1. On "Class A" carbon black said tax to be 1342/12000 of One Cent (1¢) per pound on all such carbon black produced or manufactured where the market value is Four Cents (4¢) per pound or less, and shall be 4.51% of the value of all such carbon black produced or manufactured where the market value is in excess of Four Cents (4¢) per pound.

2. On "Class B" carbon black said tax to be 341/2400 of One Cent (1¢) per pound on all such carbon black produced or manufactured where the market value is Four Cents (4¢) per pound or less, and shall be 5.72% of the value of all such carbon black produced or manufactured where the market value is in excess of Four Cents (4¢) per pound.

"Class A" carbon black as used in this Article means carbon black manufactured or produced by the use of less than two hundred (200) cubic feet of gas per pound of carbon black.

"Class B" carbon black as used in this Article means carbon black manufactured or produced by the use of more than two hundred (200) cubic feet of gas per pound of carbon black.

Should one (1) or more of the classifications herein be declared for any reason to be discriminatory or unconstitutional or for any reason invalid, then there is hereby levied on all carbon black manufactured or produced in this State a tax of 1342/12000 of One Cent (1¢) per pound on all carbon black produced or manufactured where the market value is Four Cents (4¢) per pound or less, and a tax of 4.51% of the value of all carbon black produced or manufactured where the market value is in excess of Four Cents (4¢) per pound.

The market value of a particular type or grade of carbon black shall be the average sales price of that type or grade of all bona fide sales made during the month on which the tax is being paid less the cost of packing, freight, and cartage. If no carbon black of the particular type or grade has been sold during the month for which the tax is being paid then the actual market value of the same shall be the average sales price of that type or grade of all bona fide sales during the last preceding month in which a bona fide sale of that particular type or grade of carbon black was made, less packing, freight, and cartage. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XI.

Emergency. Effective Sept. 1, 1951.

Art. 7047a—2. Tax on coin operated machines; definitions

The following words, terms and phrases as used in this Act¹ are hereby defined as follows:

(a) The term "owner" as used herein shall mean and include any person, individual, firm, company, association or corporation owning or having the care, control, management or possession of any "coin-operated machine" in this State.

(b) The term "operator" as used herein shall mean and include any person, firm, company, association or corporation who exhibits, displays or permits to be exhibited or displayed, in his or its place of business or upon premises under his or its control, any "coin-operated machine" in this State.

(c) The term "coin-operated machine" as used herein shall mean and include every machine or device of any kind or character which is operated by or with coins, or metal slugs, tokens or checks, "music coin-operated machines" and "skill or pleasure coin-operated machines" as those terms are hereinafter defined, shall be included in such terms.

(d) The term "music coin-operated machine" as used herein shall mean and include every coin-operated machine of any kind or character, which dispenses or vends or which is used or operated for dispensing or vending music and which is operated by or with coins or metal slugs, tokens or checks. The following are expressly included within said term: phonographs, pianos, graphophones, radios, and all other coin-operated machines which dispense or vend music.

(d) The term "merchandise or music coin-operated machine" as used herein shall mean and include every coin-operated machine of any kind or character, which dispenses or vends or which is used or operated for dispensing or vending merchandise, commodities, confections or music, or the showing of midget movies and which is operated by or with coins or metal slugs, tokens or checks. The following are expressly included within said term: candy machines, gum machines, sandwich machines, handkerchief machines, sanitary drinking cups, phonographs, pianos, graphophones, radios, midget movies, and all other coin-operated machines which dispense or vend merchandise, commodities, confections or music. As amended Acts 1951, 52nd Leg., p. 435, ch. 268, § 1.

Emergency. Effective May 19, 1951.

(e) The term "skill or pleasure coin-operated machines" as used herein shall mean and include every coin-operated machine of any kind or character whatsoever, when such machine or machines dispense or are used or are capable of being used or operated for amusement or pleasure or when such machines are operated for the purpose of dispensing or affording skill or pleasure, or for any other purpose other than the dispensing or vending of "merchandise or music" or "service" exclusively, as those terms are defined herein. The following are expressly included within said term: marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature football machines, miniature golf machines, miniature bowling machines, and all other coin-operated machines which dispense or afford skill or pleasure. Provided that every machine or device of any kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of skill or pleasure shall be considered as skill or pleasure machines and taxed at the higher rate fixed for such machines.

(f) The term "service coin-operated machines" shall mean and include pay toilets, pay telephones and all other machines or devices which

dispense service only and not merchandise, music, skill or pleasure. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

¹ Articles 7047a—2 et seq.

This article was amended by Acts 1951, 52nd Leg., p. 648, ch. 379, § 1, and paragraph (d) was also amended by ch. 268, § 1. As both amendments were at the same session, and neither refers to the other, both have been included in the text.

Section 2 of the amendatory act of 1951 read as follows: "If any portion of this

Act shall be held unconstitutional by any court of competent jurisdiction the remaining provisions hereof shall, nevertheless, be valid the same as if the portion held unconstitutional had not been adopted by the Legislature as a part of this Act."

Section 3 repealed conflicting laws or parts of laws.

Art. 7047a—3. Amount of tax

Every "owner" as that term is hereinabove defined, who owns, controls, possesses, exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machines" as that term is defined herein, shall pay and there is hereby levied on every coin-operated machine as defined in this Act,¹ except such as are exempted herein, an annual occupation tax determined by the following schedule:

Series "1." For each "music coin-operated machine" as that term is hereinabove defined, a fee of Five Dollars (\$5), where the coin, fee or token used, or which may be used, in the operation thereof is one of the value of Five Cents (5¢) or more, or represents a value of Five Cents (5¢) or more.

Series "2." (a) For each "skill or pleasure coin-operated machine" as that term is hereinabove defined, a fee of Sixty Dollars (\$60) where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of Five Cents (5¢) or represents a value in excess of Five Cents (5¢).

And (b) a fee of Thirty Dollars (\$30) where the coin, fee or token used, or which may be used, in the operation thereof, is one of the value in excess of One Cent (1¢) and not exceeding Five Cents (5¢) or represents a value in excess of One Cent (1¢) and not exceeding Five Cents (5¢).

Provided that nothing herein shall prevent the "operator" of such machines from paying the tax levied in this Act for the account of the "owner" but the payment of such tax by such operator or other person shall not relieve the owner from the responsibility of complying with all provisions of this Act including the keeping of the records required herein. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

¹ Article 7047a—2 et seq.

Art. 7047a—4. Exemptions from tax

Gas meters, pay telephones, pay toilets, and cigarette vending machines which are now subject to an occupation or gross receipts tax and "service coin-operated machines" as that term is defined, are expressly exempt from the tax levied herein, and the other provisions of this Section. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

Art. 7047a—6. Injunction; venue; payment of tax as condition precedent; records and reports

(a) Any person who shall invoke the power and remedies of injunction against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin him from enforcement of the collection of the tax levied herein upon any grounds for which an injunction may be issued, shall file such proceedings in a court of competent jurisdiction in

Travis County, Texas, and venue for such injunction is hereby declared to be in Travis County, Texas.

(b) Before any restraining order or injunction shall be granted against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin the collection of the taxes levied herein the applicant therefor shall pay into the suspense account of the State Treasury all taxes, fees, and assessments then due by him to the State and the application for restraining order or injunction shall reflect said fact of payment under oath of the applicant, his agent, or attorney. Provided that said applicant shall keep for the inspection at all times of the Attorney General and the Comptroller of Public Accounts of this State or their authorized representatives, a well bound book record, showing all coin-operated vending machines possessed and in operation during the pendency of such restraining order or injunction. Such book record shall show the make and kind of machine, the serial number, the date such machine was put in operation, and the location and serial number of each and every machine possessed or operated within the State. Provided further that said applicant shall make and file with the Comptroller of Public Accounts daily, excluding Sundays and legal holidays, a report on a form to be prescribed by said Comptroller, showing the ownership, make and kind, and the serial number of every such machine operated by said applicant within this State. Said report shall also show the county, city, and location within the city and county of each machine and the date such machine was placed in operation. In the event the location or ownership of any machine is changed such information shall be included in said report. Said application and temporary injunction or restraining order shall be immediately dismissed and dissolved after hearing if said applicant fails, at any time before the case shall have been finally disposed of by the court of last resort, to keep the records or make and file the reports required herein or to pay daily, excluding Sundays and legal holidays, into the suspense account of the Treasurer all taxes, fees and assessments due and thereafter becoming due, and such taxes shall be paid before such machines are operated, exhibited or displayed for operation within this State. The Comptroller of Public Accounts of this State, or his authorized representatives, may file in the court granting such injunction an affidavit that said applicant has failed to comply with the provisions of this Act¹ or has violated the same. Upon the filing of said affidavit, the clerk of said court shall issue notice to the said applicant to appear before such court upon the date named therein, which shall be within five (5) days from service of such notice or as soon thereafter as the court can hear the same, to show cause why such injunction should not be dismissed, which notice shall be served by the sheriff of the county in which applicant resides or any other peace officer in this State. In the event the injunction is finally dissolved or dismissed all taxes, fees and assessments, paid into the suspense account of the Treasurer under the provisions of this Act shall be paid to the funds to which such taxes, fees and assessments are allocated. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes the funds so deposited shall be refunded by the Treasurer to said applicant.

4. No person, firm, association or corporation required to pay the taxes levied herein to the State may receive or take advantage of any benefit of any restraining order or injunction against the Comptroller of Public Accounts, to restrain the collection of the tax levied herein except such person, firm, association or corporation as may have applied for said injunction. All other persons not securing an injunction shall pay to the Comptroller of Public Accounts all taxes, fees, and assessments due by him under the provisions of this Act and said restraining

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

order or injunction shall, in no way, interfere with or impair the power of the Comptroller of Public Accounts of this State to collect and enforce the payment of the taxes, fees, and assessments involved in any litigation from taxpayers not parties to the restraining order or injunction. Provided further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the cause of action, and shall have paid or deposited the taxes as hereinbefore provided. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

¹ Article 7047a—2 et seq.

Art. 7047a—7. Attachment of license or permit to machine

Provided further, the license or permit issued by the Comptroller to evidence the payment of the tax levied herein shall be securely attached to the machine in a manner that will require continued application of steam and water to remove the same, or posted in a conspicuous place at or near the machine so as to be easily seen by the public. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

Art. 7047a—8. Rules and regulations; forfeitures of licenses or permits

(a) The Comptroller of Public Accounts shall have the authority to make and publish rules and regulations, not inconsistent with this Act,¹ or the other laws or the Constitution of this State or of the United States, for the enforcement of the provisions of this Act and the collection of the revenues hereunder.

(b) If any individual, company, corporation or association who owns, operates, exhibits or displays any coin-operated machine in this State, shall violate any provision of this Act or any rule and regulation promulgated hereunder, the Comptroller of Public Accounts shall have the power and authority to forfeit all licenses or permits issued to any of the foregoing persons by giving written notice, stating the reason justifying such forfeiture and the same shall be forfeited five (5) days from date of such notice. No new licenses or permits shall be issued within a period of one (1) year to anyone whose licenses or permits have been forfeited, except at the discretion of the Comptroller of Public Accounts. If the licenses or permits of any individual, company, corporation, or association owning, operating or displaying coin-operated machines in this State is forfeited, such individual, company, corporation, or association shall not operate, display or permit to be operated or displayed such machines until the licenses or permits are reinstated or until new licenses or permits are granted. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

¹ Article 7047a—2 et seq.

Art. 7047a—9. Licenses or permits; collection of tax; payment of expenses

The Comptroller of Public Accounts of this State is hereby authorized, ordered and directed to collect, and issue licenses or permits for the payment of the tax levied herein and to employ all the agencies of the law available to him for the enforcement of the provisions of this Act.¹ Provided, however, that where the tax, as now levied under the provisions of Chapter 116, Acts of the First Called Session of the Forty-third Legislature as amended by Chapter 354, Acts of the Regular Session of the Forty-fourth Legislature,² upon coin-operated vending ma-

chines, has been paid at the time of the taking effect of this Act, then, and in that event, the said Comptroller of Public Accounts is authorized and empowered to make proper adjustment thereof, by crediting pro rata, upon the annual basis, any unearned tax, to the payment of the tax hereby levied. Provided further, that Twenty-five Thousand Dollars (\$25,000) of the funds derived under the provisions of this Act shall be set aside annually in a special fund subject to the use of the Comptroller and so much of said fund as may be necessary shall be expended for the printing of applications, licenses and permits and for the administration and enforcement of the provisions of this Act and so much of the proceeds of said fund shall be and the same is hereby appropriated for said purposes, same to be paid as needed; any unexpended portion of said fund so specified shall at the end of the biennium be paid in the proper proportion to the funds to which the tax levied herein is apportioned. Provided, however, that any salaries so here authorized to be paid shall not exceed in any particular the amount specified in the general appropriation bill passed at the Forty-fourth Legislature, Regular Session, for the same, similar or like services. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

¹ Article 7047a—2 et seq.

² Article 7047a—1.

Art. 7047a—10. Existing laws; violations not authorized

Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or coin-operated machine, the keeping, exhibition, operation, display or maintenance of which is now illegal or in violation of any Article of the Penal Code of this State or the Constitution of this State. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

Art. 7047a—11. Records; forfeiture of licenses

Every "owner" of one or more coin-operated machines in this State shall keep for a period of two (2) years for the inspection at all times by the Attorney General and Comptroller of Public Accounts of this State, or their authorized representatives, a complete book record in a well bound book of each and every such machine purchased, received, possessed, handled, exhibited or displayed in this State. Such record shall be kept at a permanent address which address shall be designated on the application for permit and shall include the following information: The kind of each such machine, the date acquired or received in Texas, the date placed in operation, the location or locations of each machine including county, city, street and/or rural route number, the date of each and every change in location, the name and complete address of each and every operator, the full name and address of the owner, or if other than an individual the principal officers or members thereof and their addresses. Such information shall be shown completely and separately for each and every machine. The Comptroller of Public Accounts shall be authorized and it shall be his duty to forfeit all licenses, permits of every owner failing to keep such records or failing to present such records for inspection at any time upon demand by said Comptroller of Public Accounts or his authorized representatives. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

Art. 7047a—12. Violations of act; penalty; suit to recover penalty

If any "owner" of a coin-operated machine within this State shall (a) deliver to or permit to be delivered to any "operator" a coin-operated

machine without a valid license or permit issued by the Comptroller of Public Accounts of this State being attached thereto, or (b) permit any coin-operated machine under his control to be operated, exhibited or displayed within this State without said license or permit being attached thereto, or (c) if any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a license or permit issued by the Comptroller of Public Accounts of this State showing the payment of the tax due thereon for the current year, or (d) if any person required to keep records of coin-operated machines in this State shall falsify such records, or (e) shall fail to keep such records, or (f) shall refuse or fail to present such records for inspection upon the demand of the Comptroller of Public Accounts or his authorized representatives, or (g) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Act,¹ or (h) mislead the Comptroller of Public Accounts or his authorized representatives in the enforcement of this Act, or (i) if any person in this State shall fail to comply with the provisions of this Act, or violate the same, or (j) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts, or violate the same, he shall forfeit to the State as a penalty, the sum of not less than Five Dollars (\$5) nor more than Five Hundred Dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid shall be recovered in a suit by the Attorney General of this State in a court of competent jurisdiction in Travis County, Texas, or any court having jurisdiction. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

¹ Article 7047a—2 et seq.

Art. 7047a—13. Offenses; penalty

(a) If any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a valid license or permit issued by the Comptroller of Public Accounts of this State showing the payment of the tax due thereon for the current year, or (b) if any person required to keep records of coin-operated machines in this State shall falsify such records or (c) shall fail to keep such records, or (d) shall refuse or fail to present such records for inspection upon the demand of the Comptroller of Public Accounts or his authorized representatives, or (e) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Act, or (f) mislead the Comptroller of Public Accounts or his authorized representatives in the enforcement of this Act¹, or (g) if any person in this State shall fail to comply with the provisions of this Act, or violate the same, or (h) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts, or violate the same, he shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Five Dollars (\$5) nor more than Two Hundred Dollars (\$200). As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

¹ Article 7047a—2 et seq.

Art. 7047a—14. Sealing machine to prevent operations; penalty for breaking seal

Provided that the Comptroller of Public Accounts, or his authorized representatives, may seal any such machine upon which the tax has not been paid in a manner that will prevent further operation. Whoever shall break the seal affixed by said Comptroller or his authorized

representatives, or whoever shall exhibit or display any such coin-operated machine after said seal has been broken, or shall permit to be exhibited or displayed in his place of business any coin-operated machine after said seal has been broken or shall remove any coin-operated machine from location after the same has been sealed by the Comptroller shall be guilty of a misdemeanor and upon conviction shall be punished as set out in Sub-section 11 of this Section¹. The Comptroller shall charge a fee of Five Dollars (\$5) for the release of any coin-operated machine sealed for nonpayment of tax. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

¹ Article 7047a—13.

Art. 7047a—15. Apportionment of tax; tax levy by counties and cities

Except as herein provided in this Act¹ one-fourth (1/4) of the net revenue derived from this Section shall be credited to the Available School Fund of the State of Texas and three-fourths (3/4) of the net revenue derived from this Section shall be credited to the Clearance Fund, established by Article XX of House Bill No. 8, Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941². Provided that all counties and cities within this State may levy an occupation tax on coin-operated machines in this State in an amount not to exceed one half (1/2) of the State tax levied herein. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

¹ Article 7047a—2 et seq.

² Article 7083a.

Art. 7047a—15a. Sealing of machines by city or county

Any city or county levying an occupation tax on coin-operated machines is hereby authorized to seal any such machine on which the tax has not been paid. Any city or county levying an occupation tax on coin-operated machines is hereby authorized to charge a fee not exceeding Five Dollars (\$5) for the release of any machine sealed as provided herein for nonpayment of tax. Whoever shall break the seal affixed in the name of any city or county or exhibit, display or remove from location any machine on which the seal has been broken shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Two Hundred Dollars (\$200). Acts 1936, 44th Leg., 3rd C.S., p. 2040, ch. 495, Art. 4, subsec. 13a added Acts 1951, 52nd Leg., p. 654, ch. 380, § 1.

Emergency. Effective June 2, 1951.

Art. 7047a—16. Taxes, penalties and interest under re-enacted or repealed statutes; offenses and penalties under prior laws

All occupation taxes, penalties and interest accruing to the State of Texas by virtue of any of the re-enacted or repealed provisions as set out in this Act¹ before the effective date of this Act shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties, and interest accruing under the provisions of prior or pre-existing laws, and all such taxes, penalties and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State.

The passage of this Act shall not affect offenses committed, or prosecutions begun, under any 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. As amended Acts 1951, 52nd Leg., p. 648, ch. 379, § 1.

Art. 7047b. Tax on producers of natural gas

Calculation of tax; market value; payment

Section 1 (1) There is hereby levied an occupation tax on the business or occupation of producing gas within this State, computed as follows:

A tax shall be paid by each producer on the amount of gas produced and saved within this State equivalent to 5.72% of the market value thereof as and when produced; provided that the amount of such tax on sweet and sour natural gas shall never be less than 121/1500 of One Cent (1¢) per one thousand (1,000) cubic feet.

In calculating the tax herein levied, there shall be excluded: (a) gas injected into the earth in this State, unless sold for such purposes; (b) gas produced from oil wells with oil and lawfully vented or flared; and, (c) gas used for lifting oil, unless sold for such purposes. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § III.

(2) The market value of gas produced in this State shall be the value thereof at the mouth of the well; however, in case gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. Payments made by purchasers to producers for the purpose of reimbursing such producers for taxes due hereunder shall not be considered a part of the producer's gross cash receipts. In all cases where the whole or a part of the consideration for the sale of gas is a portion of the products extracted from the producer's gas or a portion of the residue gas, or both, the tax shall be computed on the gross value of all things of value received by the producer, including any bonus or premium; provided that notwithstanding any other provision herein to the contrary, where gas is processed for its liquid hydrocarbon content and the residue gas is returned by cycling methods, as distinguished from repressuring or pressure maintenance methods, to some gas producing formation, the taxable value of such gas shall be three-fifths (3/5) of the gross value of all liquids extracted, separated and saved from such gas, such value to be determined upon separation and extraction and prior to absorption, refining or processing of such hydrocarbons and such value prior to refining shall be the value of the highest posted price of crude oil in the field where said gas is produced or in the nearest oil field in the event no oil is produced in said field and the quantity of the products shall be measured by the total yield of the processing plant from such gas. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § V.

Sec. 3-a. Repealed Acts 1951, 52nd Leg., p. 695, ch. 402, § IV.

Emergency. Effective Sept. 1, 1951.

Art. 7047c—1. Cigarette Tax

Acts 1951, 52nd Leg., p. 338, ch. 209, § 1, added to Acts 1950, 51st Leg., 1st C.S., p. 1, ch. 1, a new section to be known as section 2a-1, and reading as follows: "The State Treasurer is authorized to exchange cigarette tax stamps of the old denomination representing taxes paid at the rate levied by Section 1 of House Bill No. 2, Acts 51st Legislature, First Called Session, 1950, Chapter 1, page 1, which are pre-

sent to the Treasurer for exchange within 30 days from the effective date of this amendment, for stamps of the new denomination on proof satisfactory to the Treasurer that such stamps were lawfully purchased and in fact represent taxes paid at the rate levied by Section 1 of said House Bill No. 2 and were presented for exchange by the bona fide purchaser thereof."

Art. 7047k. Motor vehicle retail sales tax

Tax on retail sales; Federal tax

Section 1. (a) There is hereby levied a tax upon every retail sale of every motor vehicle sold in this State, such tax to be equal to 1.1% of the

total consideration paid or to be paid to the seller by the buyer, which consideration shall include the amount paid or to be paid for said motor vehicle and all accessories attached thereto at the time of the sale, whether such consideration be in the nature of cash, credit, or exchange of other property, or a combination of these. In the event the consideration received by the seller includes any tax imposed by the Federal Government, then such Federal tax shall be deducted from such consideration for the purpose of computing the amount of tax levied by this Article upon such retail sale.

(b) In all cases of retail sales involving the exchange of motor vehicles, the party transferring the title to the motor vehicle having the greater value shall be considered the seller, and no tax is imposed upon the transfer of a motor vehicle traded in upon the purchase of some other motor vehicle. Where such a retail sale involves an even exchange, each of the two parties to the transaction shall pay a tax of Five Dollars (\$5). Where a person makes a gift of a motor vehicle, the donee shall pay a tax of Ten Dollars (\$10). As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § VII (§ 1).

Use tax on vehicles brought into State

Sec. 2. (a) There is hereby levied a use tax upon every motor vehicle purchased at retail sale outside of this State and brought into this State for use upon the public highways thereof by a resident of this State or by a person, firm or corporation domiciled or doing business in this State. Such tax shall be equal to one and one-tenth per cent (1.1%) of the total consideration paid or to be paid for said vehicle at said retail sale. The tax shall be the obligation of and be paid by the person, firm, or corporation operating said motor vehicle upon the public highways of this State.

(b) When a person makes application for the initial certificate of title in this State on a particular motor vehicle, he shall pay a use tax on that motor vehicle in the sum of Fifteen Dollars (\$15). No certificate of title or motor vehicle registration for such motor vehicle shall be issued until the use tax imposed by this subsection has been paid. However, a person is not liable for the tax imposed by this subsection if the sales or use tax imposed by any other provision of this Act has been previously paid upon such motor vehicle. It is the purpose of this subsection to impose a use tax upon motor vehicles brought into this State by new residents of this State. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § VII (§ 2).

Definitions

Sec. 3.

(c) The term "motor vehicle" as used in this Act shall mean every self-propelled vehicle in or by which any person or property is or may be transported upon a public highway, including trailers and semitrailers, but shall not mean any device moved only by human power or used exclusively upon stationary rails or tracks and shall not include farm machinery or farm trailers or road building machinery or any self-propelled vehicle used exclusively to move any of the three immediately preceding vehicles. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § VII (§ 3).

Affidavits as to consideration; records of sale

Sec. 5a. The purchaser and seller shall make a joint affidavit setting forth the then value in dollars of the total consideration, whether in money or other things of value, received or to be received by the seller or his nominee in a retail sale. Where a transfer of title to a motor vehicle is made either as the result of an even exchange or of a gift, the

two principal parties to such a transaction shall make a joint affidavit setting forth the facts describing the nature of the transaction. Where any party to a sale, exchange, even exchange or gift is a corporation, the president, vice president, secretary, manager or other authorized officer of the corporation shall make the affidavit for the corporation. When the tax imposed by this Act is paid to the Tax Assessor and Collector, the person upon whom the tax is imposed by this Act shall file with the Tax Assessor and Collector the joint affidavit required by this Section. The Tax Collector and Assessor shall keep copies of the affidavits until they have been audited by the Comptroller of Public Accounts or his representative.

(a) The seller shall keep complete records of each motor vehicle transferred by him at a retail sale. The record shall be retained by the seller at his principal office for at least four (4) years from the date of the transfer of the motor vehicle. These records shall be open to inspection by the Tax Collector and Assessor or his representative and by the Comptroller of Public Accounts or his representative.

(b) Where the joint affidavit incorrectly states the amount of the consideration actually received by the seller so that the tax actually paid is less than that which was actually due, the seller shall pay an affidavit error fee as follows:

(i) Twenty-five Dollars (\$25) if the actual consideration received by the seller was from five per cent (5%) through 10 per cent (10%) greater than the consideration upon which the tax was paid, and

(ii) One Hundred Dollars (\$100) if the actual consideration received by the seller was in excess of ten per cent (10%) greater than the consideration upon which the tax was paid.

(c) The seller shall pay the affidavit error fee to the Tax Collector and Assessor. One half of the affidavit error fee shall be retained by the county as a fee of office or paid into the officers salary fund of the county, as is provided by general law. The remainder of the affidavit error fee shall be paid over to the State. The Tax Collector and Assessor shall refuse to accept an application for registration or for transfer of title of any motor vehicle from any seller who owes the Tax Collector and Assessor an affidavit error fee. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § VII (§ 4).

Receipts; disposition of collections

Sec. 6. The Tax Assessor and Collector shall issue a receipt to the person paying the taxes imposed by this Act, making two duplicate copies of the said receipt. The Comptroller of Public Accounts shall prescribe the form of the receipt. Between the 1st and 15th of April, July, October and of January, and more often if he so desires, the Tax Assessor and Collector shall forward ninety-five per cent (95%) of the money collected from the taxes imposed by this Act and one half of the affidavit error fees collected during the preceding three (3) months to the Comptroller of Public Accounts, together with one duplicate copy of each receipt issued by him to persons paying the tax or fee imposed by this Act. The Tax Assessor and Collector shall retain one duplicate receipt as a permanent record in his office and shall retain five per cent (5%) of the taxes and one half of the affidavit error fees collected as fees of office, or to be paid into the officers salary fund of the county as provided by general law. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § VII (§ 5).

Emergency. Effective Sept. 1, 1951.

Art. 7047l. Radios, cosmetics, cards; luxury excise tax; penalty for making false report or failure to report

Quarterly reports; definitions

Section 1. Each person, partnership, association, or corporation selling at retail new radios, new television sets or new cosmetics, shall make quarterly on the first days of January, April, July, and October of each year, a report to the Comptroller, under oath of the owner, manager, or if a corporation an officer thereof, showing the aggregate gross receipts from the sale of any of the above-named items for the quarter next preceding; and shall at the same time pay to the Comptroller a luxury excise tax equal to 2.2% of said gross receipts as shown by said report.

Every person, partnership, association, or corporation, selling at retail playing cards shall make quarterly report as provided above showing the total number of packs or decks of such cards sold during the preceding quarter, and shall at the same time pay to the Comptroller a luxury excise tax of \$0.06 per pack or deck of such playing cards so sold.

Nothing herein shall be construed so as to require payment of the tax on gross receipts herein levied more than once on the proceeds of the sale of the same article of merchandise. A retail sale as used herein, means a sale to one who buys for use or consumption, and not for resale. Gross receipts of a sale means the sum which the purchaser pays, or agrees to pay for an article or commodity bought at retail sale, but does not include the amount of tax provided by this Section, which the seller charges and receives above the regular price of an article or commodity. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § X.

Emergency. Effective Sept. 1, 1951.

Art. 7047m. Stock transfer and sales tax

Tax imposed; affixing stamps; memorandum of sale

Section 1. There is hereby imposed and levied a tax as hereinafter provided on all sales; agreements to sell; or memoranda of sales; and all deliveries or transfers of shares; or certificates of stock; or certificates for rights to stock; or certificates of deposit representing an interest in or representing certificates made taxable under this Section in any domestic or foreign association, company, or corporation; or certificates of interest in any business conducted by trustee or trustees made after the effective date hereof, whether made upon or shown by the books of the association, company, corporation, or trustee, or by any assignment in blank or by any delivery of any papers or agreement or memorandum or other evidence of sale or transfer or order for or agreement to buy, whether intermediate or final, and whether investing the holder with the beneficial interest in or legal title to such stock or other certificate taxable hereunder, or with the possession or use thereof for any purpose, or to secure the future payment of money or the future transfer of any such stock, or certificate, on each hundred dollars of face value or fraction thereof, \$0.033 except in cases where the shares or certificates are issued without designated monetary value, in which case the tax shall be at the rate of \$0.033 for each and every share. It shall be the duty of the person or persons making or effectuating the sale or transfer to procure, affix and cancel the stamps and pay the tax provided by this Article. It is not intended by this Article to impose a tax upon an agreement evidencing the deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon such certificates so deposited, nor upon transfers of such certificates to the lender or to a nominee of the lender or from one nominee

of the lender to another, provided the same continue to be held by such lender or nominee or nominees as collateral security as aforesaid; nor upon the retransfer of such certificates to the borrower; nor upon transfers of certificates from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, provided the same continue to be held by such nominee or nominees for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary; nor upon mere loans of stock or certificates, or the return thereof; nor upon deliveries or transfers to a broker for sale; nor upon deliveries or transfer by a broker to a customer for whom and upon whose order he has purchased the same, but transfers to the lender, or to a nominee or nominees as aforesaid, or retransfers to the borrower or fiduciary; and deliveries or transfers to a broker for sale, or by a broker to a customer for whom and upon whose order he has purchased the same shall be accompanied by a certificate setting forth the fact; nor upon transfers or deliveries made pursuant to an order of the Federal Securities and Exchange Commission which specifies and itemizes the securities ordered by it to be delivered or transferred (Provided that this exemption shall not apply to such transfers or deliveries made before the passage of this Act); nor upon record transfers following such transfers or deliveries; nor in respect to shares or certificates of stock or certificates of rights to stocks, or certificates of deposit representing certificates of the character taxed by this Article, in any domestic association, company, or corporation, if neither the sale, nor the order for, nor agreement to buy, nor the agreement to sell, nor the memorandum of sale, nor the delivery is made in this State and when no act necessary to effect the sale or transfer is done in this State. The payment of such tax shall be denoted by an adhesive stamp or stamps affixed as follows: In the case of a sale or transfer, where the evidence of the transaction is shown only by the books of the association, company, corporation, or trustee, the stamp shall be placed upon such books, and it shall be the duty of the person making or effectuating such sale or transfer to procure and furnish to the association, company, corporation, or trustee the requisite stamps, and of such association, company, corporation, or trustee to affix and cancel the same. Where the transaction is effected by the delivery or transfer of a certificate the stamp shall be placed upon the surrendered certificate and canceled; and in cases of an agreement to sell, or where the sale is effected by delivery of the certificate assigned in blank, there shall be made and delivered by the seller to the buyer, a bill or memorandum of such sale, to which the stamp provided for by this Article shall be affixed and canceled; provided, however, that such bill or memorandum may be made in duplicate and the stamp provided for by this Article may be affixed to a duplicate of such bill or memorandum and canceled; and such duplicate of such bill or memorandum may be kept by the party making such sale in his possession, provided that he shall enter upon the original of such bill or memorandum a date and number showing that such bill or memorandum was made in duplicate and that the stamp was affixed to the duplicate thereof retained by the seller. Every such bill or memorandum of sale or agreement to sell shall show the date of the transaction which it evidences, the name of the seller, the stock, or other certificate, to which it relates, and the number of shares thereof. All such bills or memoranda of sale shall bear a number upon the face thereof and no more than one such bill or memorandum of sale made by the seller on any given day shall bear the same number. The aforesaid identification number of the bill or memorandum of sale shall in all cases be entered and recorded in a book of account. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XVII.

Emergency. Effective Sept. 1, 1951.

Tex. St. Supp. '52—51

**Art. 7048a. Additional county tax levy for flood control and roads;
discontinuance of state levy**

State tax in counties, etc., where tax is donated

Sec. 10.(a)

(4) In those instances where less than the full State general ad valorem tax was granted or donated, the portion of the money collected in excess of the amount donated or granted shall be retained by or paid over to the governing body of the county or political subdivision from which such tax is collected; and in the event that the amount of State general ad valorem tax granted, donated and collected is in excess of the amount needed to pay off and fully discharge all legal obligations authorized by law and which were incurred prior to the adoption of Section 1-a of Article VIII of the Constitution of Texas, then such excess shall be retained by or paid over to the governing body of the county or political subdivision from which such tax is collected; provided, however, that nothing herein shall be construed to limit or impair the right of the Upper Colorado River Authority to receive and fully utilize the full amount of moneys heretofore donated and granted said Authority; and provided further, that nothing in this Act shall apply to, nor in anywise affect, the State general ad valorem tax heretofore granted or donated to the Central Colorado River Authority, the boundary of which is co-extensive with that of Coleman County; and provided further, that nothing contained herein shall be construed to diminish or affect any right or authority of the Brazos River Conservation and Reclamation District to receive, obligate or expend the full amount of Three Hundred Nine Thousand (\$309,000.00) Dollars each year heretofore donated for the full period of the donation. In the discretion of said governing body such excess shall be used either for the construction and maintenance of farm-to-market roads, or for flood control, only within the county, political subdivision, or defined area from which such tax is collected. The moneys thus retained or paid over shall be fully reported each year to the Comptroller of Public Accounts at the same time such Assessor-Collector makes his annual report as required by law, and the governing body of the county, political subdivision, or defined area thus retaining or being paid such excess money shall likewise report annually to the Comptroller of Public Accounts the sum thus retained or held and the purpose for which it was used. The moneys thus retained or held or declared to be trust funds to be used only for the purpose herein named, and the use thereof for any other purpose shall constitute a misapplication of public money and the person or persons so offending shall be punished as provided for in Article 86 of the Penal Code of the State of Texas. As amended Acts 1951, 52nd Leg., p. 672, ch. 389, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 7048b. Contracts for accomplishment of plans and programs

The Commissioners Court of any county in the State may enter into contracts for the accomplishment of plans and programs for flood control and soil conservation with the Federal Soil Conservation Service, State Soil Conservation Districts, State Extension Service, Conservation and Reclamation Districts, Drainage Districts, Water Control and Improvement Districts, Navigation Districts, Flood Control Districts, Levee Improvement Districts and Municipal Corporations, as provided in Section 5 of Chapter 464 of the Acts of the Fifty-first Legislature, 1949,¹ and the responsibility for carrying out such plans and the expenditure of funds of the county and such agencies, districts and municipal corpora-

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

tions may by such agreement be divided between the parties or delegated to either the county or to one or more of said agencies, districts and municipal corporations, and such contracts may be for a specified term of years or until certain plans or programs have been accomplished. Any contracts of the kind authorized hereby, which have heretofore been entered into, shall be valid and binding contracts. Acts 1951, 52nd Leg., p. 140, ch. 84, § 1.

¹ Article 7048a, § 5.

Emergency. Effective April 25, 1951.

Art. 7057a. Occupation tax on oil produced

Amount and computation of tax; records and reports; time of payment; penalty; mode of payment and persons liable

Sec. 2. (1) There is hereby levied an occupation tax on oil produced within this State of 4.6 Cents per barrel of forty-two (42) standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions and shall be based upon tank tables showing one hundred per cent (100%) of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be 4.6 per cent of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1) per barrel of forty-two (42) standard gallons. The market value of oil, as that term is used herein, shall be the actual market value thereof, plus any bonus or premiums or other things of value paid therefor or which such oil will reasonably bring if produced in accordance with the laws, rules, and regulations of the State of Texas. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § I.

Emergency. Effective Sept. 1, 1951.

Sections 9 and 10 of Section XXII of the act of 1951, read as follows:

"Section 9. All laws or parts of laws that conflict herewith are, in so far as such confliction exists, hereby repealed and this Act shall prevail over any conflicting 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 Chapter 184, Article XVII, Acts of the Regular Session of the Forty-seventh Legislature, as amended by Chapter 298, Acts of the Regular Session of the Forty-eighth Legislature, and all taxes, penalties and interest accruing under the provisions of pre-existing gasoline or motor fuel tax laws, prior to the effective date of this Act, shall be and remain valid and binding obligations due the State of Texas, and such taxes, penalties and interest are hereby declared to be legal and valid obligations to the State, and all liens and other obligations created and all bonds executed to secure their payment under the terms of said amended or 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 or re-enacted Acts before the effective date of this Act, shall be affected by the amendment or re-enactment of any such laws, but the punishment of such offense and recovery of such fines and for-

feitures shall take place as if the law amended or re-enacted had remained in force.

"Section 10. If any section, paragraph, sentence, clause, phrase or word of this Act, or the application thereof to any person or circumstances, 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, and to this end the provisions of this Act are declared to be severable."

Section 3 of Section XXIV of the Act of 1951 repealed inconsistent or conflicting laws or parts of laws, section 4 read as follows: "If any section, subsection, 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 but this Act shall be construed and enforced as if such invalid provisions had not been contained therein."

Sections XXV and XXVI of the act read as follows:

SECTION XXV

"Except as otherwise provided herein, the revenues from the taxes levied herein shall be allocated as provided in Article XX of House Bill No. 8, Chapter 184, Acts of the Forty-seventh Legislature, 1941, and any amendments thereto. (Compiled in Vernon's Annotated Civil Statutes of Texas, Article 7083a).

SECTION XXVI

"If any section, paragraph, sentence, clause, phrase or word of this Act, or the application thereof to any person or circumstances, 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, and to this end the provisions of this Act are declared to be severable."

11. Persons liable

Under deed conveying mineral interests in land in consideration of stated amount

to be paid from one-eighth of the gross amount of oil produced from the land, the gross production tax attributable to production of one-eighth of the oil produced was payable out of proceeds of such production before remittance to grantor, and grantee and its assignee were entitled to credit on the consideration payable under deed to the extent of the gross proceeds of one-eighth of the oil produced and were not, as between grantor and grantee, ultimately liable for the tax attributable to such production. *McLean v. Stanolind Oil & Gas Co.*, Civ.App., 238 S. W.2d 268, ref. n. r. e.

Art. 7057f. Occupation tax on business of gathering gas

Definitions

Section 1. The provisions of Texas Revised Civil Statutes (1925) Articles 10, 11, 12, 14, 22, and 23 and Texas Laws 1947, Chapter 359,¹ on the interpretation of Statutes shall apply specifically to this Section. In addition to these standard definitions, in this Section, unless the context otherwise requires:

(a) "Gas" means natural and casing-head gas or other gas taken from the earth or waters, regardless of whether produced from a gas well or from a well also productive of oil, distillate, condensate or other product.

(b) "Casing-head gas" means any gas or vapor indigenous to an oil stratum and produced from such stratum with oil.

(c) "Gathering gas" means the first taking or the first retaining of possession of gas produced in Texas for transmission whether through a pipe line, either common carrier or private, or otherwise after severance of such gas, and after the passage of such gas through any separator, drip, trap, meter or other method designed to separate the oil therefrom. In the case of gas containing gasoline or liquid hydrocarbons that are removed or extracted at a plant within the State by scrubbing, absorption, compression or any other process, the term "gathering gas" means the first taking or the first retaining of possession of such gas for other processing or transmission whether through a pipe line, either common carrier or private, or otherwise after such gas has passed through the outlet of such plant.

(d) "Gatherer" means any person engaged in the gathering of gas.

(e) "Person" means and includes any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust, as well as trustees acting under declarations of trusts.

(f) "Cubic foot of gas" or "standard cubic foot of gas" shall have the definition ascribed thereto by Texas Laws, 1949, Chapter 519, Section 4, Texas Revised Civil Statutes (Vernon, 1948), Article 7047b, Section 2 (12).

¹ Article 23a.

Imposition of tax; amount; calculation

Sec. 2. In addition to all other licenses and taxes levied and assessed in the State of Texas, there is hereby levied upon every person engaged in gathering gas produced in this State, an occupation tax for the privilege of engaging in such business, at the rate of 9/20 of one cent per thousand (1,000) cubic feet of gas gathered.

In determining the quantity of the gas for the purposes of calculating such tax, there shall be excluded (a) gas produced and then lawfully injected into the earth of this State; (b) gas used for fuel in connection

with lease or field operations; (c) gas lawfully vented or flared; and (d) gas used in the manufacturing of carbon black.

Payment; penalty for delay

Sec. 3. The tax levied hereby shall be paid by the gatherers on the 25th day of each month on all gas gathered in the State during the next preceding thirty (30) days prior to the first day of the month in which payment is required to be made. If such payment is not made within the time above prescribed, the amount due shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added and such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until paid.

Unlawful to require producer to pay

Sec. 4. The tax imposed by this Act is a tax on the occupation of gathering gas and not on the production of gas; therefore, it shall be unlawful for any gas gatherer to require any producer to pay the tax imposed under this Act under any contract provision between the producer and the gas gatherer allowing the gatherer to deduct from sums owed the producer amounts paid by the gatherer by reason of the imposition of a tax on production.

Records and reports; rules and regulations

Sec. 5. It shall be the duty of each gatherer of gas in this State to keep accurate records within this State of all gas gathered and showing also what disposition is made of same, and to make reports to the Comptroller of Public Accounts of gas gathered upon forms prescribed by the Comptroller of Public Accounts. The Comptroller shall prescribe forms of reports to be made by such gatherers and to require that such reports be made on officially prescribed forms.

The Comptroller of Public Accounts shall have the power to prescribe such rules and regulations, and require such records and reports as may be needed to aid in the administration and enforcement of the Act.

Examinations and investigations; appropriation for administration and enforcement

Sec. 6. The Comptroller shall employ auditors and technical assistants for the purpose of verifying reports and investigating the affairs of gatherers to determine whether the tax is being properly reported and paid. He shall have the power to enter upon the premises of any taxpayer liable for a tax under this Act, and any other premises necessary in determining the correct tax liability, and to examine, or cause to be examined, any books, or records, of any person, subject to a tax under this Act, and to secure any other information directly or indirectly concerned in the enforcement of this Act, and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this Act, which shall have the full force and effect of law. Before any division or allotment of the occupation tax collected under the provisions of this Act is made, one fifth ($\frac{1}{5}$) of one per cent (1%) of the occupation tax paid monthly as may be needed in such administration and such enforcement is hereby appropriated for such purpose.

Delinquency; injunction

Sec. 7. In the event any gas gatherer in this State shall become delinquent in the payment of the proper taxes herein imposed, or fails to file required reports with the Comptroller, the Attorney General by a suit in the name of the State of Texas shall have the right to enjoin such person

from gathering gas until the delinquent tax is paid or said reports are filed, and the venue of any such suit for injunction is hereby fixed in the county where the offense occurs.

Violations; lien; ascertainment of amount due; gas audit fund; suits

Sec. 8. If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25) for each violation and each day's violation shall constitute a separate offense. The State shall have a prior lien for all delinquent taxes, penalties, and interest on all property and equipment used by the gatherer of gas in his business of gathering gas, and if any gatherer of gas shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the gatherer of gas shall be liable, as an additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that funds collected for audits and examinations shall be placed in a gas audit fund in the Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purpose, and all of said funds to be placed in said gas audit fund are hereby appropriated for such purpose. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, penalties, and other amount due, and for the enforcement of all liens under this law; and the venue of any such suit is hereby fixed in Travis County.

Reports and audits as evidence; sale or transfer of agreements

Sec. 9. (a) If any person liable for the payment of the tax hereby levied, or required to remit the same to the Comptroller of Public Accounts, fails or refuses to pay any tax, penalty, or interest within the time and manner provided by the Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceedings, any report filed in the office of the Comptroller by such gatherer or representative of said gatherer or a certified copy thereof certified to by the Comptroller showing the amount of gas gathered on which tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said gatherer when filed and sworn to by such representative as being made from the records of said gatherer, 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 submitted in evidence only against the party by or from whom it was made.

(b) In the event the Attorney General shall file suit of claim for taxes, provided for in the foregoing, and attach or file as an exhibit any report or audit of said gatherer, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid and that all payments and credits have been allowed, then unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima-facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

(c) When any contract or agreement of gathering gas changes hands, the old gas gatherer shall note on his last report that said contract, or

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

agreement has been sold or transferred, showing the effective date of said change and the name and address of the person who will gather gas under said contract, or agreement and be responsible for the filing of reports provided for in this Act, and the new gas gatherer shall note on his first report that said contract, or agreement has been acquired, showing the effective date of said change and the name and address of the person formerly gathering gas under said contract, or agreement.

Disposition of collections

Sec. 10. All moneys derived from and collected by the State of Texas, under the provisions of this Act, less one-fifth ($\frac{1}{5}$) of one per cent (1%) as provided for in Section 6 hereof, shall be deposited in the State Treasury, in the proportion as follows: one-fourth ($\frac{1}{4}$) of the same shall go to and be placed to the credit of the Available Free School Fund; the remaining three-fourths ($\frac{3}{4}$) shall go to and be placed to the credit of the General Revenue Fund.

Invalidity as to interstate transmission; effect

Sec. 11. In the event the tax levied by this Section is declared unconstitutional or invalid by a court of competent jurisdiction as to gas gathered for interstate transmission, the tax shall not be levied as to gas gathered for intrastate consumption. Acts 1951, 52nd Leg., p. 695, ch. 402, § XXIII.

Emergency. Effective Sept. 1, 1951.

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art. 7060. 7371 Gas, electric light, power or waterworks

Each individual, company, corporation, or association owning, operating, managing, or controlling any gas, electric light, electric power, or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power, or water, shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller under oath of the individual, or of the president, treasurer, or superintendent of such company, or corporation, or association, showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power, or water for the quarter next preceding. Said individual, company, corporation, or association, at the time of making said report for any such incorporated town or city of more than one thousand (1,000) inhabitants and less than two thousand, five hundred (2,500) inhabitants, according to the last Federal Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to .484% of said gross receipts, as shown by said report; and for any incorporated town or city of more than two thousand, five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to .891% of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or as-

sociation, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to 1.66375% of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power or water works, or water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district.

Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation, or association, and distributed by another, the tax shall be paid by the distributor alone.

No city or other political subdivision of this State, by virtue of its taxing power, proprietary power, police power or otherwise, shall impose an occupation tax or charge of any sort upon any person, corporation, or association required to pay an occupation tax under this Article. Nothing in this Article shall be construed as affecting in any way the collection of ad valorem taxes authorized by law; nor impairing or altering in any way the provisions of any contracts, agreements, or franchises now in existence, or hereafter made between a city and a public utility, relating to payments of any sort to a city. Nothing in this Article shall be construed as prohibiting an incorporated city or town from making a reasonable charge, otherwise lawful, for the use of its streets, alleys, and public ways by a public utility in the conduct of its business, and each such city shall have such right and power; but any such charges, whether designated as rentals or otherwise, and whether measured by gross receipts, units of installation, or in any manner, shall not in the aggregate exceed the equivalent of two per cent (2%) of the gross receipts of such utility within such municipality derived from the sale of gas, electric energy, or water. Any special taxes, rental, contributions, or charges accruing after the effective date of this Act, under the terms of any pre-existing contract or franchise, against any utility paying an occupation tax under this Article, when paid to any such city, shall be credited on the amount owed by such public utility on any charge or rental imposed for the use of streets, alleys, and public ways, levied by ordinance, and accruing after the effective date of this Act; provided that where valid ordinances have been enacted heretofore by cities imposing a charge or rental in excess of two per cent (2%) of the gross receipts of such utilities, nothing herein shall be construed so as to prohibit the collection of such sum as may be due said cities thereunder from the date of said ordinances up to the time this Article shall become effective.

And provided further that utilities paying an occupation tax under this Article shall not hereafter be required to pay the license fee imposed in Article 5a, House Bill No. 18, Chapter 400, Acts of Forty-fourth Legislature,¹ for the privilege of selling gas and electric appliances and parts for the repairs thereof, in towns of three thousand (3,000) or less in population according to the next preceding Federal Census. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § VI.

¹ Vernon's Ann.P.C.art. 1111d, § 5a.

Emergency. Effective Sept. 1, 1951.

Art. 7060a. Occupation tax on certain services in connection with oil wells

Section 1. (a) The term "person" shall for the purpose of this Article mean and include individuals, partnerships, firms, joint stock companies, associations, and corporations.

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

(b) Every person in this State engaged in the business of furnishing any service or performing any duty for others for a consideration or compensation, with the use of any devices, tools, instruments or equipment, electrical, mechanical, or otherwise, or by means of any chemical, electrical or mechanical process when such service is performed in connection with the cementing of the casing seat of any oil or gas well or the shooting or acidizing the formation of such wells or the surveying or testing of the sands or other formations of the earth in any such oil or gas wells, shall report on the 20th day of each month and pay to the Comptroller, at his office in Austin, Texas, an occupation tax equal to 2.42% of the gross amount received from said service furnished or duty performed, during the calendar month next preceding. The said report shall be executed under oath on a form prescribed and furnished by the Comptroller. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XIV.

Emergency. Effective Sept. 1, 1951.

Art. 7064. 7376 Insurance companies other than life, other than fraternal benefit associations, and other than non-profit group hospital service plans; tax on gross premiums

Every insurance corporation, Lloyd's or reciprocals, and any other organization or concern transacting the business of fire, marine, marine inland, accident, credit, title, livestock, fidelity, guaranty, surety, casualty, workmen's compensation, employers' liability, or any other kind or character of insurance business, other than the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, written by a life insurance company, life and accident insurance company or health and accident insurance company, or for mutual benefit or protection in this State and other than fraternal benefit associations or societies in this State, and other than non-profit group hospital service plans, at the time of filing its annual statement, shall report to the Board of Insurance Commissioners the gross amount of premiums received upon property located in this State or on risks located in this State during the preceding year, and each of such insurance carriers shall pay an annual tax upon such gross premium receipts of 3.85%, provided that any such insurance carriers doing two (2) or more kinds of insurance businesses herein referred to shall pay the tax herein levied upon its gross premiums received from each of said kinds of business; and the gross premium receipts where referred to in this law shall be the total gross amount of premiums received on each and every kind of insurance or risk written, except premiums received from other licensed companies for reinsurance, less return premiums and dividends paid policyholders, but there shall be no deduction for premiums paid for reinsurance. The gross premium receipts, as above defined, shall be reported and shown as the premium receipts in the report to the Board of Insurance Commissioners by the insurance carriers, upon the sworn statements of two (2) principal officers of such carriers. Upon receipt by the Board of Insurance Commissioners of the sworn statements, showing the gross premium receipts by such insurance carriers, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by each insurance carrier which tax shall be paid to the State Treasurer on or before the first day of March following, and the Treasurer shall issue his receipt to such carrier, which shall be evidence of the payment of such taxes. No such insurance carrier shall receive a permit to do business in this State until all such taxes are paid.

Each such insurance organization shall also report to the Board of Insurance Commissioners on or before the first day of March of each year,

the amount that it had invested on the 31st of December, preceding, in Texas securities as defined herein and the amount that it had invested on said date in similar securities in the State in which it had its highest percentage of admitted assets invested, and in computing the amount of such investments in such other State, it shall include as a part thereof that percentage of its investments in bonds of the United States of America purchased between December 8, 1941, and the termination of the war in which the United States is now engaged that its reserves for unearned premiums and loss reserves, as required in such other state, are of its total reserves. If the report of such insurance organization as of December 31st preceding, shows that such organization had invested in Texas securities, as herein defined, an amount which is not less than seventy-five per cent (75%) nor more than eighty per cent (80%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be 3.025% of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty per cent (80%) and not more than eighty-five per cent (85%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be 2.75% of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-five per cent (85%) and not more than eighty-eight per cent (88%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be 2.2% of its gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-eight per cent (88%) and not more than ninety per cent (90%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be 1.65% of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of ninety per cent (90%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 1.1% of such gross premium receipts. Provided, further, that the amount of all examination and valuation fees paid in each taxable year to or for the use of the State of Texas by any insurance organization hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance organization for such taxable year.

For the purposes of this Act, Texas securities are defined as real estate in this State; bonds of the State of Texas; bonds or interest bearing warrants of any county, city, town, school district or any municipality or subdivision thereof which is now or may hereafter be constituted or organized and authorized to issue bonds or warrants under the Constitution and laws of this State; notes or bonds secured by mortgage or trust deed on property in this State 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 such insurance company's investments in the bonds of the United States of America, that its Texas reserves for the unearned premiums and loss reserves as may be required by the Board of Insurance Commissioners, 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; in any other property in this State in which by law such insurance carriers may invest their funds.

No occupation tax shall be levied on insurance companies herein subjected to the gross premium receipt tax by any county, city or town. All mutual fraternal benevolent associations now or hereafter doing business in this State under the lodge system and representative form of government, whether organized under the laws of this State or a foreign state or country, are exempt from the provisions of this Article. The taxes aforesaid shall constitute all taxes collectible under the laws of this State against any such insurance carriers except maintenance taxes specially levied under the laws of this State and assessed by the Board of Insurance Commissioners to support the various activities of the divisions of the Board of Insurance Commissioners, and except if any such carrier is writing personal accident or health and accident insurance other than workman's compensation, it shall be taxed as otherwise provided by law on account of such business; and except unemployment compensation taxes levied under Senate Bill No. 5, passed by Third Called Session of the Forty-fourth Legislature and amendments thereto.¹ No other tax shall be levied or collected from any insurance carrier by the state, county, city or any town, but this law shall not be construed to prohibit the levy and collection of state, county and municipal taxes upon the real and personal property of such carrier. Purely cooperative or mutual fire insurance companies carried on by the members thereof solely for the protection of their own property, and not for profit, shall be exempt from the provisions of this law. This Act shall be cumulative of all other laws and shall repeal Article 4758, Revised Civil Statutes of 1925, as amended, and all other laws only in so far as they levy any tax on any of the organizations affected by this Act or otherwise conflict with this Act, except as provided above. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XV (§ 1).

¹ Article 5221b—1 et seq.

Emergency. Effective Sept. 1, 1951.

The provisions of Articles 4769, 7064, 7064a, as amended by Acts 1951, 52nd Leg. p. 695, ch. 402, are not repealed by implica-

tion by provisions in Insurance Code of 1951, arts. 4.01, 4.06 relating to occupation taxes on domestic insurance companies. Op. Atty. Gen. No. V-1199, June 28, 1951.

Art. 7064 $\frac{1}{2}$. Additional tax on insurance companies

Acts 1951, 52nd Leg., p. 695, ch. 402, § XV (§ 2), eff. Sept. 1, 1951, provided that this article is hereby repealed in so far and

only in so far, as it levies a tax on premium receipts for the year 1951.

Art. 7064a. Tax on domestic life, accident and health insurance organizations

Every group of individuals, society, association, or corporation (all of which shall be deemed included in the term 'insurance organization' wherever used in this Act) organized under the laws of this State and transacting the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, or for mutual benefit, or protection in this State shall on or before the first day of March of each year file its annual statement showing the gross amount of premiums collected during the year ending December 31st, preceding, from persons residing or domiciled in this State on policies of insurance, and showing in separate columns the first-year premiums and the renewal premiums collected on such Texas policies, and each such insurance organization, except local mutual aid associations, fraternal benefit societies, and fraternal insurance associations or societies that limit their membership to one (1) occupation, shall pay an annual tax of 1.1% of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas on policies of in-

insurance. Each such insurance organization shall also report to the Board of Insurance Commissioners on or before the first day of March of each year the amount that it had invested on the 31st day of December, preceding, in Texas securities as defined by Article 4766 of the Revised Civil Statutes of Texas, 1925, as amended; provided, however, that all such insurance companies whose gross premium receipts are less than Four Hundred and Fifty Thousand Dollars (\$450,000) for the preceding year ending December 31st, wherever and irrespective of from whom collected, according to its annual statement which shall disclose such information, shall pay a tax of 55/80 of 1% of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas except as to first-year premiums as provided herein; provided, however, that the gross premium taxes herein imposed shall not be applicable to first-year premiums; and provided further that where any policy is written on a term plan only the premium collected during the first year shall be deducted on such policy or any renewal, extension or substitution thereof by the company issuing such term policy, and provided further that the amount of all examination and valuation fees paid in such taxable year to or for the use of the State of Texas by any insurance organization hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance organization for such taxable year. Such gross premium receipts so reported shall not include premiums received from other licensed companies for reinsurance of business in Texas and there shall be no deduction for premiums paid for reinsurance. If any such insurance organization does more than one (1) kind of insurance business, then it shall pay the tax herein levied upon the gross premiums on each kind of insurance written. The report of the gross premium receipts and the invested assets shall be made upon the sworn statement of two (2) principal officers.

Upon receipt by it of the sworn statement above provided, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by such insurance organization which shall be paid to the State Treasurer on or before the 15th day of March, following, and the State Treasurer shall issue his receipt therefor as evidence of the payment of such tax. Such taxes shall be for and on account of business transacted within this State during the calendar year ending December 31st, in which such premiums were collected, or for that portion of the year during which the insurance organization transacted business in this State. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this State from any such insurance organization, organized under the laws of this State, except, and only except unemployment compensation taxes levied under Senate Bill No. 5, passed at the Third Called Session of the forty-fourth Legislature and amendments thereto¹; and the fees provided for under Article 3920 of the Revised Civil Statutes of Texas, 1925, and amendments thereto; and in the case of companies operating under Article 4742 of the Revised Civil Statutes of Texas, 1925, the deposit fees prescribed by that Article and amendments thereto; and in case of companies writing workman's compensation insurance, the taxes otherwise provided by law on account of such business; and no other taxes shall be levied or collected by the State or any county, city or town except State, county, and municipal ad valorem taxes upon real or personal properties of such insurance organization. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XVIII (§ 1).

¹ Article 5221b—1 et seq.

Emergency. Effective Sept. 1, 1951.

Art. 7064a—1. Additional tax on life, accident and health insurance organizations

The provisions of Articles 4769, 7064, 7064a, as amended by Acts 1951, 52nd Leg. p. 695, ch. 402, are not repealed by implication by provisions in Insurance Code of 1951, arts. 4.01, 4.06 relating to occupation taxes on domestic insurance companies. Op. Atty. Gen. No. V-1199, June 28, 1951.

Acts 1951, 52nd Leg., p. 695, ch. 402, § XVIII (§ 2), eff. Sept. 1, 1951, provided that this article is hereby repealed insofar and only insofar as it levies a tax on premium receipts for the year 1951.

Art. 7065b—1. Definitions; motor fuel taxes

The following words, terms and phrases shall, for all purposes of this Article, be defined as follows:

(a) "Motor fuel" shall mean and include any volatile or inflammable liquid by whatever name such liquid may be known or sold, with a flash point of one hundred and twelve (112) degrees Fahrenheit or below, according to the United States official closed testing cup method of the United States Bureau of Mines, which is used or is capable of being used, either alone or when blended, mixed, or compounded for the purpose of generating power for the propulsion of any internal combustion engines or any motor vehicles. The term "motor fuel" shall not however, include the fuels hereinafter defined as "liquefied gas" or "other liquid fuels", upon which products taxes are levied by Section 14 of this Article¹, and which fuels are hereinafter referred to as "special fuels".

(b) "Liquefied gas" shall mean and include all combustible gases which liquefy at certain temperatures and pressures, but which exist in the gaseous state at sixty (60) degrees Fahrenheit, and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute.

(c) "Other liquid fuels" shall mean any liquid petroleum products, or substitute therefor, having a flash point above one hundred and twelve (112) degrees Fahrenheit, according to the United States official closed testing cup method of the United States Bureau of Mines, including diesel fuel, kerosene, distillate, condensate, or similar products that may be used as fuel to generate power for the propulsion of motor vehicles upon the highways of this State.

(d) "Special fuels" shall mean and include "liquefied gas", or "other liquid fuels", as those products are hereinabove defined, or said term shall mean both of said products where the context clearly indicates that a combination of the two products is intended.

(e) "Motor vehicle" shall mean and include any automobile, truck, tractor, bus, vehicle, engine, machine, mechanical contrivance, or other conveyance which is propelled by an internal combustion engine or motor.

(f) "Vehicle tanks" shall mean an assembly used for the transportation, hauling, or delivery of liquids, comprising a tank, which may be one compartment or may be subdivided into two (2) or more compartments, mounted upon a wagon, automobile, truck, or trailer, together with its accessory piping, valves, meter, etc. The term "compartment" shall be construed to mean the entire tank whenever this is not subdivided; otherwise, it shall mean any one of those subdivided portions of the tank which is designed to hold liquid.

(g) "Distributor" shall mean and include every person in this State who refines, distills, manufactures, produces, blends, or compounds motor fuel or blending materials, or in any other manner acquires or possesses motor fuel or blending materials for the purpose of making a first sale, use, or distribution of the same in this State; and it shall also include every person in this State who ships, transports, or imports any motor

fuel or blending materials into this State and makes the first sale, use, or distribution of same in this State; the said term shall also include every person in this State who produces or collects the liquid residuum of natural gas, commonly known as drip gasoline, or who is responsible for the production or formation of said drip gasoline, intentionally or otherwise, unless said product is totally destroyed or rendered neutral as motor fuel or as a product capable of use as motor fuel in this State.

(h) "User-dealer" shall mean and include any distributor, dealer, or other person selling and delivering special fuels in this State into the fuel tank of any motor vehicle for use in propelling said motor vehicle upon the public highway of Texas; the said term shall also mean and include any distributor, dealer, or other person who shall acquire any special fuels tax free and use it or deliver it into a fuel tank for use to propel motor vehicles operated by said distributor, dealer or other person upon the public highway of Texas.

(i) "Distribution" shall mean and include any transaction, other than a sale, in which ownership or title to motor fuel, or any derivative of crude oil or natural gas, passes from one person to another.

(j) "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, co-partnership, corporation (public, private, or municipal), trustee, agency, or receiver.

(k) "Dealer" shall mean and include every person other than a distributor who engages in the business in this State of distributing or selling motor fuel within this State.

(l) "Public highway" shall mean and include every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, and notwithstanding that the same may be temporarily closed for the purpose of construction, maintenance, or repair.

(m) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

(n) "First Sale" shall mean the first sale or distribution in this State of motor fuel refined, blended, imported into, or in any other manner, produced in, acquired, or brought into this State.

(o) "Refund Motor Fuel" shall mean motor fuel used, sold or disposed of for any purpose for which a refund of the tax paid thereon is authorized by law. And any motor fuel so used or disposed of shall be construed to have been used or disposed of for "refund purposes".

(p) "Refund Dealer" shall mean any dealer, distributor, or other person who engages in the selling of refund 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. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 1).

¹ Article 7065b—14.

Emergency. Effective Sept. 1, 1951.

Art. 7065b—2. Motor fuel; occupational or excise tax of 4 cents per gallon; collection; interstate commerce; in lieu of other motor fuel taxes

(d) No tax shall be imposed upon the sale, use, or distribution of any motor fuel, the imposing of which would constitute an unlawful burden on interstate commerce, and no tax shall be imposed upon the sale of any motor fuel for export from the State of Texas (including both sales in interstate and foreign commerce) where the motor fuel is delivered to a common carrier, ocean-going vessel (including ship, tanker or boat), or a barge, and is moved forthwith outside of this State. Provided however,

that the Comptroller may require satisfactory evidence of any such sale, use, distribution or delivery. In the event this Article is in conflict with the Constitution of the United States or any Federal law, with respect to the tax levied upon the first sale, distribution, or use of motor fuel in this State, then it is hereby declared to be the intention of this Article to impose the tax levied herein upon the first subsequent sale, distribution, or use of said motor fuel which may be subject to being taxed. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 2).

Art. 7065b—3. Monthly payments by distributors; reports

(a) Every distributor who shall be required to collect the tax levied by this Article upon the first sale or distribution of motor fuel in this State, or who shall be required to pay the tax levied herein upon motor fuel used by said distributor, shall upon the 25th day of each calendar month remit or pay over to the State of Texas at the office of the Comptroller at Austin, Travis County, Texas, the amount of such tax required to be collected during the calendar month next preceding and the amount of such tax required to be paid upon motor fuel used by said distributor during said preceding calendar month, and at the same time, such distributor shall make and deliver to the Comptroller at his office in Austin, Travis County, Texas, a report properly sworn to and executed by such distributor, or his representative in charge, which shall show the date said report was executed, the name and address of said distributor, and the month which the report covers, and which report shall show separately by gallons the motor fuel on hand at the beginning and at the end of the month, and complete information of all motor fuel handled during the month, including motor fuel purchased or received in interstate commerce, motor fuel purchased or received in intrastate commerce, reflecting separately the quantity received with the tax paid and the quantity received without the tax having been paid, motor fuel refined, motor fuel acquired by blending, motor fuel sold in interstate commerce, motor fuel sold in intrastate commerce, motor fuel sold and exported, motor fuel sold to the United States Government, motor fuel sold to a distributor for further refining, processing, blending, or for exportation upon which no tax was collected, motor fuel lost by fire or other accident, motor fuel lost by refinery shrinkage, evaporation, or other losses, and motor fuel used and consumed by the distributor and his representatives. The said report shall also show complete information by gallons of all blending materials purchased, acquired, sold, used, and lost by fire or otherwise, during the month the report covers, and the beginning and ending inventories of such blending materials. Said report shall also show a complete record of the number of barrels of crude oil refined and the number of cubic feet of gas processed. Provided that where a qualified distributor has not sold, used, or distributed any motor fuel during any month or part thereof, he shall nevertheless file with the Comptroller the report required herein setting forth such fact or information. Provided further, that the Comptroller may prepare and furnish a form prescribing the order in which the information required herein shall be set up on said monthly report, but the failure of any distributor to obtain such form from said Comptroller shall be no excuse for the failure to file a report containing all the information required to be reported herein. Every distributor, at the time of making said report, shall attach legal tender thereto or make proper form of money order or exchange payable to the State Treasurer in the amount of tax for the period covered by the report. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 3).

Art. 7065b—13. Refunds; applications; records; license; invoice of exemption; affidavit; fire or other accident; sales to United States Government; Highway Motor Fuel Tax Fund

(a) In all refund claims filed under this section the burden shall be on the claimant to furnish sufficient and satisfactory proof to the Comptroller of the claimant's compliance with all provisions of this Article; otherwise, the refund claim shall be denied.

(b) Any person, (except as hereinafter provided) who shall use motor fuel for the purpose of operating or propelling any stationary gasoline engine, motor boat, aircraft, or tractor used for agricultural purposes, or for any other purpose except in a motor vehicle operated or intended to be operated upon the public highway of this State, and who shall have paid the tax imposed upon said motor fuel by this Article, either directly or indirectly, shall, when such person has fully complied with all provisions of this Article and the rules and regulations promulgated by the Comptroller, be entitled to reimbursement of the tax paid by him less one per cent (1%) allowed distributors for collecting and remitting the tax and complying with other provisions of the law. Provided, however, no tax refund shall be paid to any person on motor fuel used in any construction or maintenance work which is paid for from any State funds to which motor fuel tax collections are allocated or which is paid jointly from any such State funds and Federal funds, except that when such fuel is used in maintenance of way machines, or other equipment of a railroad, operated upon stationary rails or tracks, then such railroad shall be entitled to a tax refund on such fuel.

(c) Any person desiring to sell to others, or to appropriate for his own use, refund motor fuel as defined herein, shall make separate application to the Comptroller for each separate place of business from which refund motor fuel will be sold, or appropriated for use, for a refund dealer's license to sell or appropriate such product and it shall be unlawful to issue an invoice of exemption covering the sale or appropriation of refund motor fuel without possessing a valid refund dealer's license. The Comptroller shall make such examination of each application for license and the applicant therefor as he deems necessary and if in his opinion the applicant is qualified to perform the duties required of a refund dealer and is otherwise entitled to the license applied for, a non-transferable license shall be issued by the Comptroller for the place of business named in the application. Each license so issued shall be continuous in force and effect until such time as the Comptroller shall require a renewal thereof, or until such license shall be terminated by the licensee or revoked or suspended by the Comptroller as provided by law.

No refund of the tax paid on any motor fuel shall be granted unless such motor fuel has been purchased from, or appropriated and used by, a refund dealer holding a valid license at the time of such purchase or use, except upon motor fuel exported, lost by accident, or purchased by the United States Government for its exclusive use.

Every refund dealer shall be required to maintain the records required of a dealer by Section 10 of this Article¹, and in addition each such refund dealer shall keep for a period of two years for the inspection of the Comptroller and the Attorney General or their authorized representatives, the original copy of each invoice of exemption issued by such dealer. The license number of the refund dealer shall be inserted in the space provided on each invoice of exemption issued by him.

The Comptroller shall have the authority and it shall be his duty to revoke or suspend the license or licenses of any refund dealer who violates or fails or refuses to comply with any provision of this Article or

any rule and regulation duly promulgated by the Comptroller. In the event the Comptroller revoked or suspends a license, the said license and all unissued invoices of exemption assigned to the dealer for said license shall be surrendered by the licensee to the Comptroller forthwith.

(d) When motor fuel is ordered or purchased for refund purposes the purchaser or recipient thereof shall state the purpose for which such motor fuel will be used or is intended to be used, and shall request an invoice of exemption which shall be made out by the selling refund dealer at the time of such delivery, or, if the motor fuel is appropriated for use by a refund dealer it shall be made out at the time the motor fuel is appropriated or set aside for refund purposes. The invoice of exemption shall state: the refund dealer's license number; the date of purchase and the date of delivery; the names and addresses of the purchaser and the selling dealer; the purpose for which such motor fuel will be used or is intended to be used; the number of gallons delivered, or appropriated for use; and any other information the Comptroller may prescribe. No refund shall be allowed unless an invoice of exemption is made out at the time of delivery, except as hereinafter provided. If it be shown by evidence sufficient and satisfactory to the Comptroller that an invoice of exemption had been duly requested by a purchaser of refund motor fuel or his agent at the time of the purchase or delivery and that its failure to be issued was through no fault of the claimant, then the Comptroller may, if he finds the motor fuel has been used for refund purposes, issue warrant in payment of the claim.

The invoice of exemption shall be made out and executed in duplicate by the refund dealer, the duplicate of which shall be delivered to the purchaser of the motor fuel and the original shall be retained by the refund dealer at the place of business designated on his license for the time and in the manner herein provided. Each invoice of exemption shall be signed by the refund dealer and the person who purchases the motor fuel for refund purposes or a duly authorized employee or agent of said dealer or purchaser. But if neither the purchaser of the motor fuel nor an agent is present to sign the invoice of exemption at the time of delivery, the refund dealer shall mail or deliver the duplicate invoice of exemption to the purchaser within seven (7) days after delivery of the motor fuel.

(e) It shall be unlawful for any refund dealer, or any employee thereof, to prepare or notarize any claim for refund of tax paid on motor fuel purchased from said refund dealer, or to act in any capacity as agent or employee of any claimant for refund of tax paid on motor fuel purchased from said refund dealer by keeping his books, records, refund claim forms or other documents to be used or intended for use by said claimant in the preparation of his tax refund claim, and the Comptroller shall not approve the payment of any tax refund claim, in whole or in part, in which the claimant has permitted the seller of the motor fuel upon which tax refund is claimed, or any employee of said seller, to prepare, notarize or file his claim for tax refund, or to keep any books, records or documents used in the preparation or filing of said claim. Provided that the Comptroller may, after proper hearing as herein provided, cancel, suspend, or refuse the issuance or reinstatement of the license of any refund dealer who shall prepare or notarize, or who shall permit any employee to prepare or notarize, any claim for refund of tax paid on motor fuel purchased from said refund dealer by the claimant thereof, or who shall keep, or permit any employee to keep, any duplicate invoice of exemption for more than seven (7) days after it has been duly issued to a purchaser of refund motor fuel.

(f) Any person entitled to file claim for tax refund under the terms of this Article shall file such claim with the Comptroller on a form prescribed by the Comptroller within six (6) months from the date the motor fuel was delivered to him, or from the date the motor fuel was lost, exported or sold to the United States Government, and no refund of tax shall ever be made where it appears from the invoice of exemption, or from the affidavits or other evidence submitted, that the sale or delivery of the motor fuel was made more than six (6) months prior to the date the refund claim was actually received in the Comptroller's office. The refund claim, with all duplicate invoices of exemption required by law to be issued with the sale of refund motor fuel included as a part of said claim, shall be verified by affidavit of the claimant, or a duly authorized agent of the claimant, and shall show the quantity of refund motor fuel acquired and on hand at the beginning and closing dates of the period covered in the refund claim filed.

If any claimant was not present when the refund motor fuel was used for any purpose, except in machines operated upon stationary rails or tracts, the Comptroller may require such additional affidavits as he may deem necessary to prove the correctness of the claim, from persons who were present and used or supervised the using of the refund motor fuel. The claim for tax refund shall include a statement that the information shown in each duplicate invoice of exemption attached to the tax refund claim is true and correct, and that deductions have been made from the tax refund claim for all motor fuel used on the public highway of Texas and for all motor fuel used or otherwise disposed of in any manner in which a tax refund is not authorized herein. If upon examination, and such other investigation as may be deemed necessary, the Comptroller finds that the claim filed for tax refund is just, and that the taxes claimed have actually been paid by the claimant, then he shall issue warrant due the claimant but no greater amount shall be refunded than has been paid into the State Treasury on any motor fuel, and no warrant shall be paid by the State Treasurer unless presented for payment within two years from the close of the fiscal year in which such warrant was issued, but claim for the payment of such warrant may be presented to the Legislature for appropriation to be made from which said warrant may be paid.

If the refund motor fuel for which tax refund is claimed was used on a farm or ranch or for any agricultural purpose the claim shall show the make, model, and year of manufacture of each tractor, combine and other vehicle in which any refund motor fuel included in the claim was used and the actual work performed, showing the different kinds of crops planted and the acreage used or set aside for each crop, during the period of the refund claim, and showing complete information of all other work performed by each such tractor, combine or other vehicle used by the claimant during the period of the claim. The claim shall likewise show the make, kind and horse power of each stationary engine or motor in which refund motor fuel was used by the claimant and the purposes for which it was used, and if any of the motor fuel included in the claim was used other than in the operation of motors or engines, the claim shall show complete information as to the manner of use and the purpose for which the motor fuel was used. The claim shall also state the number of automobiles, trucks, pickups and other licensed vehicles operated regularly by the claimant or his employees, on or in connection with the farm, ranch or other agricultural project, and shall show the name and address of the dealer or dealers from whom taxable motor fuel was purchased for use in such licensed vehicles during the period of the claim.

If the refund motor fuel was used in mining, quarrying, drilling, producing, exploring for minerals, or in construction, maintenance, repair

work or in other functions similar to the above uses, a distribution schedule, or such other information as the Comptroller may require, shall be attached to and filed as a part of the refund claim which shall show the quantities of motor fuel delivered to and consumed in each vehicle or other unit of equipment used in such work during the period of the claim; provided, however, that no schedules shall be required to show the quantities of motor fuel used in machines operated upon stationary rails or tracks.

If the refund motor fuel was used in aircraft or motor boats, the claim shall show the make and description of such aircraft or motor boat and the quantities of motor fuel used during the period of the refund claim.

If the refund motor fuel was used for cleaning, or dyeing, or for industrial or domestic purposes, or as converted into a product other than motor fuel by any manufacturing or blending process, the claim shall show the purpose or purposes for which the motor fuel was used and the quantity used for each separate purpose.

It shall be the duty of every person claiming tax refund to verify the contents of the claim filed and any such person who shall file claim for tax refund on any motor fuel which has been used to propel a motor vehicle, tractor or other conveyance upon the public highway of Texas for any purpose for which a tax refund is not authorized herein, or who shall file any duplicate invoice of exemption in a claim for tax refund on which any date, figure or other material information has been falsified or altered after said duplicate invoice of exemption has been duly issued by the refund dealer and delivered to the claimant, shall forfeit his right to the entire amount of the refund claim filed.

(g) No tax refund shall be paid on motor fuel used in automobiles, trucks, pickups, jeeps, station wagons, buses, or similar motor vehicles designed primarily for highway travel, which travel both on and off the highway except as hereinafter provided. (a) If any such motor vehicles are used entirely for non-highway purposes except when propelled over the public highway to obtain repairs, oil changes, or similar mechanical or maintenance services, or when propelled over the public highway for other incidental purposes, or (b) if any such motor vehicles are operated exclusively during the period covered in any refund claim over prescribed courses lying between fixed terminals or bases, in which such vehicles travel the same mileage on the highway on each trip and the same mileage off the highway on each such trip, then in such cases a tax refund claim may be approved for the motor fuel used off the public highway in such vehicles, only when the claimant has kept a complete record of each trip traveled over any part of the public highway showing the date, the highway mileage traveled and the quantity of motor fuel used in each of said vehicles during the period of such travel.

Any claimant who owns or operates more than one farm, ranch, or similar tract of land in the same vicinity, may move his farm tractors over the public highway for the purpose of transferring the base of operation of such tractors from one such farm, ranch, or other similar tract of land, to another, without measuring and deducting the refund motor fuel used in such incidental highway travel from his claim for tax refund. Motor fuel consumed in any tractor traveling more than ten miles on the public highway during any one trip, shall not be construed to have been used for incidental purposes and shall not be subject to tax refund thereon, and motor fuel consumed in any tractor used in transporting produce, goods, wares, or other commodities or merchandise over the public highway, or consumed in any tractor used in custom work for others, or consumed in any tractor used upon the public highway for any

purpose other than in moving said tractor from its base of operation on one farm, ranch, or other similar tract of land, to another within the limitations described hereinabove, shall be deducted, in the full amount so used, from any claim for tax refund filed by the user of said motor fuel.

A claimant may account for any part of refund motor fuel used upon the public highway, and not eligible for tax refund, by one of the following methods: (1) In motor vehicles which operate exclusively off the public highway except for incidental highway travel as described above, a claimant may drain all refund motor fuel from the fuel tank of any such motor vehicle, tractor or other conveyance before it moves upon the public highway, and then refill it with accurately measured motor fuel, which shall be deducted from the refund motor fuel set up in the claim if said fuel tank is refilled with refund motor fuel, or (2) claimant may, by accurately measuring the mileage any such vehicle, tractor or other conveyance travels upon the public highway, deduct from the refund motor fuel set up in the claim, an amount equal to one fourth ($\frac{1}{4}$) of a gallon for each mile or fraction of a mile any such motor vehicle, tractor or other conveyance travels on the public highway during the period of the claim, or (3) the Comptroller may prescribe regulations to permit any claimant who operates motor vehicles or other conveyance exclusively over prescribed courses lying between fixed terminals or bases in which the vehicles travel the same mileage on the public highway on each trip and the same mileage off the highway on each such trip, to keep a record of the total miles traveled and the total quantity of accurately measured motor fuel consumed by each such vehicle during the period of the claim, from which the claimant may, for tax refund purposes, be permitted to calculate and determine the quantities used off the highway upon a basis of the average miles per gallon traveled by each such vehicle, or (4) if claimant uses any part of refund motor fuel purchased on invoice of exemption in motor vehicles which operate regularly on the public highway in which no part of the motor fuel used is eligible for tax refund, he shall keep a complete record showing the date of each separate use or withdrawal for use, the make and description of the vehicle in which used, and the quantity so used, as measured through any type measuring device or standard measuring container acceptable to the Comptroller, and the quantity so used shall be deducted from the refund motor fuel set up in the claim filed by said claimant, or the Comptroller may in his discretion permit any claimant who has kept proper record to deduct from the refund motor fuel set up in his claim, a quantity equal to the true capacity of the fuel tank of the vehicle using any part of such refund motor fuel on the highway, each time such fuel tank is filled or serviced with refund motor fuel.

The records prescribed hereinabove shall be kept for a period of six (6) months from the date any claim, to which such records are pertinent, is filed in the Comptroller's office, and no tax refund shall ever be paid in whole or in part when a part of the motor fuel purchased on any invoice of exemption contained in the claim has been used to operate a motor vehicle, tractor or other conveyance of any kind or description upon any public highway for which a tax refund is not authorized herein, unless the claimant has kept for the time and in the manner herein provided a complete record of all such uses for which no tax refund is authorized.

(h) Any person who shall export, or lose by fire or other accident motor fuel in any quantity of one hundred (100) gallons or more upon which the tax imposed herein has been paid, or who shall sell motor fuel upon which the tax has been paid in any quantity to the United States Government, for the exclusive use of said Government, may file claim for refund of the net tax paid to the State in the manner herein provided, or

as the Comptroller may direct. Provided, that any bonded distributor holding a valid distributor's permit who establishes proof sufficient and satisfactory to the Comptroller of such export, loss by accident, or sale to the United States Government, may take credit for the net amount of the tax paid to the State on any subsequent monthly report and tax payment made to the Comptroller within six (6) months from the date of such exportation, loss or sale.

(i) The right to receive a tax refund under the provisions of this section shall not be assignable except as hereinafter provided. Any person residing or maintaining a place of business outside of the State of Texas who shall purchase motor fuel in any quantity of not less than one hundred (100) gallons and shall export the entire quantity so purchased out of Texas forthwith, may assign his right to claim tax refund to the licensed distributor from whom such motor fuel was purchased, or to any licensed distributor who has paid the tax on such motor fuel either directly or through another licensed and bonded distributor in Texas. When such distributor has secured the proof of export required by the Comptroller, he may file claim for refund of the tax paid on the motor fuel so exported, or, such distributor may take credit for an amount equal to said tax refund on any monthly report and tax payment filed with the Comptroller within six (6) months from the date the motor fuel was exported.

(j) For the purpose of enabling the Comptroller, and his authorized representatives, to ascertain whether or not refund motor fuel has been or is being used for the purposes for which it was purchased, they shall have the right to inspect the premises and the storage thereon where any motor fuel purchased on an invoice of exemption is stored or used and to examine any books and records kept by such purchaser, pertaining to such motor fuel, and it shall be a violation of the law for any person who has purchased or received motor fuel upon which an invoice of exemption has been issued to refuse permission to make such inspection or examination. It is further provided that the refusal of any such person to permit the inspection and examination described hereinabove shall constitute a waiver of all right to receive a tax refund on any claim under investigation.

(k) Any person who violates or fails to comply with any provision of this Section, or any rule and regulation duly promulgated by the Comptroller for the enforcement of the provisions of this Section, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars (\$25) nor more than two-hundred dollars (\$200). Provided however, that the penalties prescribed above shall not apply to offenses punishable under Section 27 of this Article ², but the said Section 27 shall apply and control over such offenses. In addition to all other penalties prescribed in this Article, it is herein provided that a conviction for a violation of any provision of this Section of said Article shall, for the first offense, forfeit the right of said person to receive a tax refund for a period of six (6) months from the date of said conviction, and for each subsequent offense, shall forfeit the right of said person to receive a tax refund for a period of one (1) year from the date of said conviction.

(l) Concurrently with the issuance of a refund dealer's license the Comptroller shall issue and charge to the account of the licensee, a book or books of invoices of exemption which invoices shall be printed in duplicate sets and serially numbered. The Comptroller shall keep a record of the number of books and their serial numbers issued to each refund dealer who shall be liable for a penalty in the amount of Five Dollars (\$5) for each book of invoices of exemption received by him for which

he can not properly account as hereinafter provided. Whenever a representative of the Comptroller audits the motor fuel records of a refund dealer, or whenever a refund dealer places a reorder for a book or books of invoices of exemption, such dealer shall prepare a written record showing the serial numbers of all books not previously accounted for and if such record does not account for each book previously issued to said refund dealer which has not been previously accounted for, the refund dealer shall be given thirty (30) days notice in writing to produce any missing book or to show that it has been used to cover sales of refund motor fuel made by said refund dealer. If the missing book or books are not accounted for within thirty (30) days from the date of said notice the refund dealer shall forfeit to the State of Texas as a penalty the sum of Five Dollars (\$5) for each book unaccounted for, which shall be paid to the Comptroller and allocated to the same funds to which the motor fuel taxes collected hereunder are apportioned. No further books of invoices of exemption shall be issued to any refund dealer who has incurred the penalty described hereinabove until said penalty has been paid. Any invoices of exemption which become mutilated or unusable shall be returned to the Comptroller by the refund dealer for credit to his account. The books of invoices of exemption shall not be transferable or assignable by such refund dealer unless such transfer or assignment is authorized by the Comptroller.

If any duplicate invoice of exemption issued to a purchaser is lost or destroyed, said purchaser may make application to the Comptroller for forms to be issued and used in lieu of each lost duplicate.

The invoices of exemption bound in book form shall be furnished by the State of Texas, free of cost, to the refund dealer.

(m) 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 25th 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.

(n) 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 per cent (1%) deducted originally by the distributor upon the first sale or distribution of the motor fuel shall be deducted in com-

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

puting 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 filing fees shall be paid into the State Treasury and shall be paid out on vouchers and warrants in such manner as may be prescribed by law. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 4).

¹ Article 7065b—10.

² Article 7065b—27.

Emergency. Effective Sept. 1, 1951.

Art. 7065b—14. Liquefied gas and other liquid fuels; tax; permits; bonds; records; payment of tax; reports; enforcement; registration of vehicles

(a) There is hereby levied and imposed an excise tax of Four Cents (4¢) per gallon on all liquefied gas used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highway of Texas, and Six Cents (6¢) per gallon on all other liquid fuels used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highway of Texas, and every user-dealer who sells and delivers liquefied gas or other liquid fuels into a fuel tank or tanks used to supply fuel for the propulsion of any licensed motor vehicle or any other motor vehicle being operated or intended to be operated upon the public highway of this State shall, at the time of such sale and delivery, collect the said tax at the rate or rates imposed from the purchaser or recipient of said special fuels, in addition to his selling price, and shall report and pay to the State of Texas the tax so collected at the time and in the manner as herein provided. Every user-dealer shall likewise report and pay to the State of Texas, the tax at the rate or rates imposed hereinabove on each gallon of liquefied gas or other liquid fuels, hereinafter referred to as special fuels, acquired in any manner tax free by said user-dealer and thereafter used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highway of Texas.

It is the intent and object of this Section that the tax or taxes imposed herein on special fuels, as that term is defined, shall be paid by the persons using or consuming said special fuels to generate power for the propulsion of motor vehicles upon the public highways of this State, and the granting of a permit to user-dealers to collect said excise taxes for and in behalf of the State of Texas shall be deemed to establish a fiduciary relationship. Provided however, that no tax shall be imposed upon the sale or delivery of special fuels to the United States Government for its exclusive use.

Provided that no tax shall be paid on special fuels brought into Texas in quantities of not more than thirty (30) gallons in a fuel tank connected to and feeding the carburetor of a motor vehicle entering the State; if said quantities exceed thirty (30) gallons, the tax and penalties shall apply to the full amount being used on the Texas highway. Provided, further, that a licensed user-dealer may deduct from his report and tax remittance the tax on one per cent (1%) of the taxable gallonage to cover the expenses of collecting the taxes, keeping records, making reports and furnishing bond.

(b) From and after the effective date of this Article as hereby amended, all persons desiring to sell and deliver special fuels in this State into the fuel tank of any motor vehicle for use in the propulsion thereof upon or over the public highway of Texas, and every person desiring to use

special fuels acquired tax free in any manner to propel any motor vehicle upon the public highway of Texas shall file application with the Comptroller for a user-dealer's permit to make such taxable sales or uses of special fuels, said application to be on a form prescribed by the Comptroller setting forth the name under which such user-dealer transacts or intends to transact business, and showing such other information as the Comptroller may require. Provided however, a distributor of motor fuel duly licensed in Texas may file a joint application for a permit to sell, distribute or use motor fuel and special fuels under one permit and one bond.

(c) Concurrently with the filing of said application the user-dealer shall file with the Comptroller a bond in an amount to be set by the Comptroller at not less than One Hundred Dollars (\$100) nor more than the maximum fixed herein for a motor fuel distributor's bond. The bond shall be executed by a surety company authorized to write bonds in this State, or the equivalent in cash, or securities of any class acceptable for motor fuel distributors bonds, may be filed. The said bond shall be posted to guarantee the payment to the State of Texas, of the taxes required herein to be collected upon the sale and delivery and paid upon the use of special fuels by a user-dealer, together with all penalties which may become due for failure to remit said taxes to the Comptroller within the time prescribed by law, and shall be conditioned upon the full compliance with all other provisions of this Article affecting a user-dealer. It is expressly provided however, that any distributor of motor fuel who also sells or uses special fuels as a user-dealer may, in lieu of furnishing the user-dealer's bond, file a joint or single bond conditioned upon the full, complete and faithful performance of all the terms, conditions and requirements imposed upon a distributor and a user-dealer by this Article, including the remittance to the State of Texas of all taxes collected upon the sales and all taxes due upon the use of motor fuel and special fuels, said bond to be on a form and containing such information as the Comptroller may prescribe. Such bond or bonds shall expire on December 31st of each year but may be continued in force for the succeeding twelve (12) months or may be increased or reduced by renewal certificate issued by the surety thereon.

Any surety on a bond furnished under the provisions of this Section may obtain release and discharge from such bond and all liability thereunder to the State within thirty (30) days from the date such surety files written request for such release with the Comptroller, but such release shall not operate to release the surety from any liability already accrued, or which shall accrue before the expiration of said thirty-day period. The user-dealer who furnished such bond shall be promptly notified to furnish a new bond and if a new and acceptable bond is not furnished within fifteen (15) days from date of said notice the user-dealer's permit shall be canceled. Provided further, suit may be filed against any surety or sureties on any bond furnished by a user-dealer, without first resorting to or exhausting the assets of such user-dealer or without making said user-dealer, as principal obligor in said bond, a party to said suit.

(d) The application in proper form and satisfactory bond having been filed and accepted, the Comptroller shall issue the applicant a nonassignable consecutively numbered permit authorizing the sale and delivery of special fuels into the fuel tanks of motor vehicles operated or to be operated upon the public highway of Texas, and authorizing the use of such special fuels to propel motor vehicles owned or operated by a user-dealer upon the public highway, said permit to be effective from the date it is issued for the balance of the calendar year ending December 31st of

each year. A separate certificate of the permit shall be issued for each additional place of business operated by a user-dealer which shall be kept in the place of business for which it is issued. A bond shall be filed and a permit obtained for each calendar year beginning January 1st, and ending December 31st, or for any part thereof in which the applicant intends to sell or use special fuels for the taxable purposes described herein, and no person shall sell or use special fuels for any purpose which requires the tax to be paid upon such sale or use, unless he holds a valid permit from the Comptroller authorizing such taxable sales or uses for the calendar year named in the permit.

The permit shall be revocable for the violation of or the failure to comply with any provision of this Article appertaining to the sale or use of special fuels for taxable purposes, or any rule and regulation duly promulgated by the Comptroller for the enforcement of such provisions of law. The revocation, suspension or refusal to issue or reinstate any such permit shall be made in the manner and subject to the terms and conditions provided in section 16 of this Article¹ and the said Section 16 is hereby made applicable to any such action taken by the Comptroller.

(e) In addition to other records required in this Article every user-dealer shall keep in Texas for a period of two (2) years, for the inspection at all times by the Comptroller and Attorney General, or their authorized representatives, a well-bound book record which shall provide complete information of all liquefied gas and other liquid fuels handled by said user-dealer at each place of business where special fuels are sold, delivered or used, for taxable purposes, including inventories of each product on hand at each such place of business on the first of each month and showing the gallons of each product purchased or otherwise acquired, the gallons of each product delivered daily for taxable purposes, the gallons of each product used daily for taxable purposes and the gallons of each product sold or otherwise disposed of daily for any purpose or purposes not subject to the tax imposed herein. And it is expressly provided that each delivery of liquefied gas or other liquid fuels into a fuel tank for use in propelling a motor vehicle upon the public highway of Texas, regardless of the quantity delivered, shall be recorded upon a serially numbered invoice which shall be issued in not less than duplicate counterparts with the name and address of the user-dealer printed thereon, and on which spaces shall be provided wherein shall be shown the date of each such delivery, the quantity and the kind of product delivered, the state highway license number, or the make and description if not licensed, of each motor vehicle into which liquefied gas or other liquid fuels is delivered into its fuel tank for taxable use. Provided further, that the invoice shall reflect separately the tax involved in each such sale, delivery, or use of such products. One counterpart of the invoice shall be kept by the user-dealer for the time hereinabove prescribed and the other counterpart thereof shall be delivered to the purchaser or user of the special fuels who shall carry it with him until the fuel is consumed. If the special fuels are used by the user-dealer in which no sale is involved, a notation shall be recorded on the invoice showing such fact or information.

If any user-dealer shall fail to keep the records and make the reports as required herein, the Comptroller is hereby authorized to fix or establish the amount of taxes, penalties and interest due the State of Texas from any records or information available to him and if the tax claim as developed from such procedure is not paid, such claim, and any audit made by the Comptroller's representatives, shall be admissible in evidence in any suit or judicial proceedings filed by the Attorney General, and shall be prima-facie evidence of the correctness of said claim or audit;

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-dealer.

(f) Every user-dealer who shall be required to collect the taxes levied by this Section upon the sale or delivery of special fuels, or who shall be required to pay the taxes levied upon special fuels used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highway by said user-dealer, shall upon the 25th day of each calendar month remit or pay over to the State of Texas through the Comptroller at his office in Austin, Travis County, Texas, the amount of such taxes due by said user-dealer from the sale, delivery or use of special fuels, and at the same time, such user-dealer shall make and deliver to the Comptroller a report, verified by affidavit of the user-dealer, or his representative in charge, showing the date of said report, the name and address of the user-dealer reporting, and the month which the report covers. The report shall show complete information of all liquefied gas and other liquid fuels handled during the month reported at each place of business from which special fuels are delivered into the fuel tanks of motor vehicles for use on the public highway, including the gallons of each product purchased or otherwise acquired, the gallons of each product sold or delivered for taxable purposes, the gallons of each product used for taxable purposes, and the gallons of each product sold or otherwise disposed of for any purpose or purposes not subject to the tax imposed herein. Provided that when a qualified user-dealer has not sold, delivered or used any special fuels for taxable purposes during any month or part thereof, he shall nevertheless file with the Comptroller the report required herein setting forth such fact or information. Every user-dealer, at the time of making said report, shall attach legal tender thereto or make proper form of money order or exchange payable to the State Treasurer in the amount of tax due and required to be paid for the period covered by the report.

Provided further that if any user-dealer is also a licensed distributor of motor fuel, he may include the information required herein to be reported for special fuels in his monthly distributor's report.

Every user-dealer shall be prima facie presumed to have sold, delivered or used for taxable purposes all special fuels shown by a duly verified audit by the Comptroller, or any representative thereof, to have been delivered to him at each place of business from where such fuels are sold, delivered or used for taxable purposes, and not accounted for. When it shall appear that a user-dealer has erroneously reported and remitted or paid more taxes than were due the State of Texas upon any special fuels during any taxpaying period, either on account of a mistake of fact or law, the Comptroller may credit the total amount of taxes due by such user-dealer for the current period with the total amount of taxes so erroneously paid; such credit shall be allowed before any penalties or interest shall be applicable.

(g) All taxes, penalties, interest, and costs due by any user-dealer to the State under the provisions of this Article, and all taxes collected and required to be paid by said user-dealer 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, and regardless of the time such liens originated, upon all of the property of any user-dealer devoted to or used in his business as a user-dealer, which property shall include all plants, storage tanks, warehouse, office buildings and equipment, tank trucks or other vehicles, stocks on hand of every kind and character used or usable in such business, and the proceeds from the sale of such stocks and materials, including cash on hand and in banks, accounts and notes receiv-

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

able and all other property of every kind and character whatsoever and wherever situated devoted to such use and including each tract of land on which such business and the property used in carrying on such business is located.

(h) As a means of enforcing the provisions of this Article, the Comptroller and his authorized representatives, and any highway patrolman, sheriff, constable or other peace officer, shall have the right to stop any motor vehicle which appears to be transporting special fuels, or which appears to be operating with any special fuels, for the purpose of examining the invoice or manifest required to be carried with such products and for the purpose of sampling and examining the product and making any other investigation necessary to determine whether or not the tax has been paid or a tax liability has been incurred on the product being transported or used.

(i) Any person who owns or operates a tractor, combine, or similar agricultural vehicle propelled with special fuels which is capable of being used on the public highways of this State, and who is not required to register as a user-dealer under the provisions of this Article shall register each and every such vehicle with the Comptroller, on forms furnished by the Comptroller and containing such information as the Comptroller may prescribe, and shall on such form state under oath whether he intends to use any such vehicle on the public highway of this State. In the event any such registrant, except as hereinafter provided, uses any such vehicle on the public highway of this State, he shall make application and qualify as a user-dealer as provided in subsection (b) above. Any such registrant shall be permitted to move any such registered vehicle over the public highway for the purpose of transferring its base of operation from one farm, ranch, or other similar tract of land owned or operated by said person to another, without qualifying as a user-dealer and paying the tax on the special fuels used in such incidental travel on the highway. Special fuels consumed in any such tractor or vehicle traveling more than ten (10) miles on the public highway during any one trip shall not be construed to have been used for incidental purposes and the user thereof shall be required to qualify as a user-dealer and report and pay the tax on the special fuels used on the highway on such trip. Provided further, that special fuels consumed in any vehicle which has not been registered with the Comptroller as above provided or special fuels consumed in any vehicle used in transporting goods, wares, merchandise or other commodities over the public highway or consumed in vehicles used in custom work for others, or used upon the public highway for any purpose other than in moving said vehicle from its base of operation on one farm, ranch or similar tract of land to another within the limitations prescribed hereinabove shall be subject to the taxes imposed herein, and the user thereof shall be required to furnish bond and obtain a User-dealer's Permit before using special fuels for such taxable purposes. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 5).

1 Article 7065b—16.

Art. 7065b—18. Violations of act; penalties; venue of suits; injunction against collection of taxes; bond in lieu of payment into suspense account

If any person affected by the Article (a) shall fail to pay to the State of Texas any tax due and owing under the provisions of this Article, or (b) shall fail to keep for the period of time provided herein any books or records required, or (c) shall make false entry or fail to make entry in the books and records required to be kept, or (d) shall mutilate, de-

stroy, secrete, or remove from this State, any such books or records, or (e) shall refuse to permit the Comptroller, the Attorney General, or their authorized representatives to inspect and examine any books or records, required to be kept, or any other pertinent books or records, incident to the conduct of his business that may be kept, or (f) shall make, deliver to, and file with the Comptroller a false or incomplete return or report, or (g) shall refuse to permit the Comptroller, or his authorized representatives, to inspect any premises where motor fuel, crude petroleum, natural gas, or any derivative or condensate thereof are produced, made, prepared, stored, transported, sold or offered for sale or exchange, or (h) shall refuse permission to said persons to examine, gauge, or measure the contents of any storage tanks, vehicle tanks, pumps, or other containers, or to take samples therefrom, or (i) shall refuse permission to said persons to examine and audit any books, records, and gauge reports kept in connection with or incidental to said equipment, or (j) shall refuse to stop and permit the inspection and examination of any motor vehicle transporting motor fuel or transporting or using special fuels, upon demand of any person authorized to inspect the same, or (k) shall fail to make and deliver to the Comptroller any return or report required herein to be made and filed, or (l) shall forge or falsify any invoice of exemption herein provided, or (m) shall make any false statement in any claim for refund of motor fuel taxes as to any material fact required to be given, or (n) shall use special fuels for the propulsion of a motor vehicle upon the public highway without then and there possessing an invoice showing that the tax on the use of said products has been paid, or accounted for by a licensed user-dealer, or if any such person (o) shall fail or refuse to comply with any provision of this Article or shall violate the same, or (p) shall fail or refuse to comply with any rule and regulation promulgated hereunder by the Comptroller, or violate the same, he shall forfeit to the State of Texas as a penalty the sum of not less than Twenty-five Dollars (\$25), nor more than Five Hundred Dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid shall be recovered in a suit by the Attorney General in a Court of competent jurisdiction in Travis County, Texas, or any other court of competent jurisdiction having venue under existing venue Statutes. Provided that in addition to the penalties shown, if any distributor or user-dealer does not make remittance for any taxes collected, or pay any taxes due the State of Texas by said distributor or user-dealer, within the time prescribed by law, said distributor or user-dealer shall forfeit two per cent (2%) of the amount due; and if said taxes are not remitted or paid within ten (10) days from the date the Comptroller gives such distributor or user-dealer notice of the amount due in writing directed to the address shown in the application for permit filed by said distributor or user-dealer, an additional eight per cent (8%) shall be forfeited. All past due taxes and penalties shall draw interest at the rate of six per cent (6%) per annum.

The venue of any suit, injunction, or other proceeding at law or in equity available for the establishment or collection of any claim for delinquent taxes, penalties, or interest accruing hereunder and the enforcement of the terms and provisions of this Article, shall be in a court of competent jurisdiction in Travis County, Texas, or in any other court having venue under existing venue Statutes.

Provided further, that before any restraining order or injunction shall be granted against the Comptroller, or his authorized representatives, to restrain or enjoin the collection of any taxes, penalties, and interest imposed by this Article, the applicant therefor shall pay into the suspense account of the State Treasurer all such taxes, penalties, and

interest showing to be due and owing to the State by any audit made by the Comptroller, or his duly authorized representative, when said audit has been certified to by the Comptroller or his Chief Clerk, and has been signed under oath by said authorized representative as having been made from the books and records of said applicant, whether or not required to be kept under the provision of this Article, or from the books and records of any person from whom such applicant has purchased, received, delivered, or sold motor fuel or special fuels, or from the books and records of any transportation agency, which has transported such products to or from said applicant. Provided, however, that said applicant may, in lieu of paying said taxes, penalties, and interest into the suspense account of the State Treasurer, file with said Treasurer a good and sufficient surety bond in the amount and form and under the conditions provided in Section 1, Chapter 310, Acts of the Regular Session of the Forty-fifth Legislature¹, and the provisions of said Section 1, Chapter 310, are hereby made applicable to any suit filed to restrain or enjoin the collection of any such taxes, penalties, and interest imposed by this Article. Any proceedings to enjoin the collection of such taxes, penalties, and interest, or the enforcement of any provision of this Article shall be in a court of competent jurisdiction in Travis County, Texas. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 6).

¹ Article 7047j, § 1.

Emergency. Effective Sept. 1, 1951.

Art. 7065b—22. Waiver of forfeiture proceedings on paying double amount of tax

(a) Authority is hereby conferred upon the Comptroller to waive any proceedings for the forfeiture of any of the property seized under the provisions of this Article, or any part thereof, provided that the offender shall pay into the State Treasury through the Comptroller a penalty equal to twice the amount of the tax due on the motor fuel plus all other costs in connection with such seizure. A record of all such settlements and waivers of forfeiture shall be kept by the Comptroller and shall be open to public inspection.

(b) Provided further, that if the Comptroller finds from examination of records or from other investigation that motor fuel or special fuels have been sold, delivered, or used for any taxable purpose without the taxes levied by this Article having been paid to the State of Texas, or accounted for by a licensed distributor or user-dealer, he shall have the power to require the person making such taxable sale, delivery or use of such motor fuel or special fuels to pay into the State Treasury through the Comptroller the taxes due and a penalty equal to the amount of such taxes due. If any person who has made any such taxable sale or taxable use is unable to furnish sufficient evidence to the Comptroller that said taxes have been paid, or accounted for by a licensed distributor or a user-dealer, the prima facie presumption shall arise that such motor fuel or special fuels was sold, delivered or used without said taxes having been paid. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 7).

Emergency. Effective Sept. 1, 1951.

Art. 7065b—25. Special fund for administration and enforcement; disposition of taxes collected

Before any diversion or allocation of the motor fuel tax collected under the provisions of this Article is made, one per cent (1%) of the gross amount of said tax shall be set aside in the State Treasury in a special fund, subject to the use of the Comptroller in the administration and enforcement, of the provisions of this Article, and so much of said pro-

ceeds of one per cent (1%) of the motor fuel tax paid monthly as may be needed in such administration and enforcement, be and is hereby appropriated for said purpose. Any unexpended portion of said fund so specified shall, at the end of each fiscal year, revert to the respective funds in the proper proportions to which the Motor Fuel Tax Fund is allocated at the end of each fiscal year.

Each month the Comptroller of Public Accounts, shall, after making the deductions for refund purposes as provided in Section 13 of this Article¹, and for the enforcement of the provisions of this Article, allocate and deposit the remainder of the taxes collected under the provisions of this Article, in the proportions as follows: One-fourth ($\frac{1}{4}$) of such tax shall go to, and be placed to the credit of, the Available Free School Fund; one-half ($\frac{1}{2}$) of such tax shall go to and be placed to the credit of the State Highway Fund for the construction and maintenance of the State Road System under existing laws; and from the remaining one-fourth ($\frac{1}{4}$) of such tax the Comptroller shall: (1) place to the credit of the County and Road District Highway Fund an amount determined by the Board of County and District Road Indebtedness and certified by the Board to the Comptroller of Public Accounts prior to August 31 each year, for the fiscal year beginning September 1 each year, to be required in addition to any and all funds already on hand, for the payment by the Board of the principal, interest and sinking fund requirements for such year, on all bonds, warrants or other legal evidences of indebtedness heretofore issued by counties or defined road districts of this State, which mature on or after January 1, 1933, in so far 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 and declared by the Board of County and District Road Indebtedness prior to January 2, 1945, to be eligible to participate in the distribution of the moneys in the County and Road District Highway Fund under the provisions of existing laws; (2) for the fiscal year beginning September 1, 1951, and each fiscal year thereafter, the Comptroller shall place to the credit of the Fund known as the County and Road District Highway Fund the sum of Seven Million, Three Hundred Thousand Dollars (\$7,300,000), said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be allocated by the Board of County and District Road Indebtedness to all of the counties of Texas not later than September 15 of each year, through the Lateral Road Account, as provided under subsection (h) of Section 6, of Chapter 324 of the General and Special Laws of the Forty-eighth Legislature, Regular Session, 1943, as amended by Section 1 of Chapter 319, Acts of the Fiftieth Legislature, 1947²; and (3) the Comptroller shall place to the credit of the State Highway Fund the remainder of such one-fourth ($\frac{1}{4}$) of such tax, said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be used by the State Highway Department for the construction and improvement of Farm to Market Roads having the same general characteristics as the roads eligible for construction under subsection 4b of Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, as amended.³ As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXIV (§ 1).

¹ Article 7065b—13.

² Article 6674q—7(h).

³ Article 7083a.

Emergency. Effective Sept. 1, 1951.

Art. 7065b—26. Penalties for certain violations

If any person (a) 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 by a distributor, user-dealer, refund dealer, or dealer, or (b) shall refuse to permit said persons to inspect and examine any plant, equipment, materials, or premises where motor fuel or special fuels are produced, processed, stored, sold, delivered or used, or (c) shall refuse to permit said persons to measure or gauge the contents of all storage tanks, pumps or containers on said premises, or take samples therefrom, or (d) shall conceal any motor fuel or special fuels for the purpose of violating any provision of this Article, or (e) shall transport motor fuel, or special fuels in a motor vehicle with pipe or tube connection from the cargo tank or container to the carburetor of said motor vehicle, or (f) shall use special fuels to propel a motor vehicle upon the public highway without the tax having been paid to the State of Texas, or accounted for by a user-dealer, or (g) shall sell or distribute motor fuel or special fuels from a fuel tank or auxiliary fuel tank with a direct or indirect connection to the carburetor of a motor vehicle, or (h) if any dealer shall fail or refuse to keep in Texas for the period of time required by law, any books or records required to be kept by said person, or (i) if any dealer, or the agent or employee of any dealer, shall knowingly make any false entry or fail to make entry in the books and records required to be kept by a dealer, or (j) if any refund dealer shall refuse to surrender his refund dealer's license to the Comptroller upon suspension or cancellation of said license, or (k) shall refuse to surrender to the Comptroller all unissued invoices of exemption upon the suspension or cancellation of said license, or (l) if any user-dealer shall deliver special fuels into the fuel tank of a motor vehicle for the propulsion of said motor vehicle upon the public highway without then and there holding a valid user-dealer's permit, or if any person (m) shall fail or refuse to comply with any provision of this Article, or shall violate the same, or (n) shall fail or refuse to comply with any rule and regulation duly promulgated by the Comptroller, or shall violate the same, said person or persons shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 8).

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, absorption gasoline, or special fuels under a false manifest, or (b) whoever shall knowingly transport any of the foregoing named commodities in any quantity, for which a manifest is required to be carried, 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 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 (e) whoever shall make a first sale, distribution, or use of motor fuel, upon which a tax is required to be paid by law, without then and there holding a valid distributor's permit issued by the Comptroller, or (f) whoever as a distributor shall fail or refuse to make

and deliver to the Comptroller a report containing the information required by law to be made and delivered to said Comptroller, or (g) whoever as a user-dealer shall fail or refuse to make and deliver to the Comptroller a report containing the information required by law to be made and delivered to said Comptroller, or (h) whoever shall knowingly make and deliver to the Comptroller any false or incomplete report required by law to be made and delivered to the Comptroller by a distributor or by a user-dealer, or (i) whoever as a distributor shall fail or refuse to keep in Texas for the period of time required by law any books and records required to be kept by a distributor, or (j) whoever as a user-dealer shall fail or refuse to keep in Texas for the period of time required by law any books and records required to be kept by a user-dealer, or (k) whoever shall knowingly make any false entry or shall wilfully fail to make entry in any books and records required to be kept by a distributor or by a user-dealer, or (l) whoever shall wilfully forge or falsify any invoice of exemption prescribed by law, or (m) whoever shall wilfully and knowingly make any false statement in any claim for a tax refund delivered to or filed with the Comptroller, 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 a distributor of motor fuel, or as a user-dealer in special fuels, or as a refund dealer, for a period of two (2) years from the date of such conviction.

Provided, that if any penalties prescribed elsewhere in this Article shall overlap as to offenses which are also punishable under Section 27 of this Article¹, 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 1951, 52nd Leg., p. 695, ch. 402, § XXII (§ 8).

¹ This article.

Art. 7066b. Motor bus companies; motor carriers; contract carriers; occupation tax

(a) Each individual, partnership, company, association, or corporation doing business as a "motor bus company" as defined in Chapter 270, Acts, Regular Session of the Fortieth Legislature, as amended by the Acts of 1929, First Called Session of the Forty-first Legislature, Chapter 78¹, or as "motor carrier" or "contract carrier" as defined in Chapter 277, Acts, Regular Session of the Forty-second Legislature², over and by use of the public highways of this State, shall make quarterly on the first day of January, April, July, and October of each year, a report to the Comptroller, under oath, of the individual, partnership, company, association, or corporation by its president, treasurer, or secretary, showing the gross amount received from intrastate business done within this State in the payment of charges for transporting persons for compensation and any freight or commodity for hire, or from other sources of revenue received from intrastate business within this State during the quarter next preceding. Said individual, partnership, company, association, or corporation at the time of making said report, shall pay to the State Treasurer an occupation tax for the quarter next preceding said date equal to 2.42% of

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

said gross receipts, as shown by said report. Provided, however, carriers of persons or property who are required to pay an intangible assets tax under the laws of this State, are hereby exempted from the provisions of this Article of this Act.

All rights, privileges, permits and certificates of public convenience and necessity granted to such motor bus companies, motor carriers and/or contract carriers by the Railroad Commission of Texas, may be cancelled by said commission if the owner or owners thereof shall in any manner avoid, fail or refuse to make the reports and pay the tax in the time and manner herein provided. The said Commission shall accept as true, a certificate from the Comptroller of Public Accounts setting forth the avoidance, failure or refusal to make such reports and/or pay such tax. A penalty of ten per cent (10%) shall accrue on past due taxes, and in addition thereto such delinquent taxes shall draw interest at the rate of ten per cent (10%) per annum. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XIII.

¹ Article 911a; Vernon's Ann.P.C. art. 1690a.

² Article 911b, §§ 1-13b, 15a, 17-19, 22b, 22c; Vernon's Ann.P.C. art. 1690b. Emergency. Effective Sept. 1, 1951.

Art. 7070. 7382 Telephone companies

(1) Each individual, company, corporation, or association owning, operating, managing, or controlling any telephone line or lines, or any telephones within this State and charging for the use of same, shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller, under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation, or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupational tax for the quarter beginning on said date, equal to 1.65% of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand, five hundred (2,500) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to 1.925% of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand, five hundred (2,500) inhabitants, and not more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to 2.5025% of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census. Nothing herein shall apply to any telephone line or lines owned and operated by a cooperative, non-profit, membership corporation. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XIX.

Emergency. Effective Sept. 1, 1951.

Art. 7080. Permit

Every person, company, firm, partnership, corporation, or unincorporated company or association, engaged in any business within this State, upon which the laws of this State require the payment of a tax on gross

receipts, shall be required to have a permit to transact such business, to be issued by the State Comptroller, which permit shall be and remain posted, subject to the view of the public at the principal office of such person to whom the same is issued. The permit shall be issued in such form as the Attorney General may prescribe, shall show the name of the person or concern to whom issued, the business to be transacted, and that the holder thereof has complied with this law. As amended Acts 1951, 52nd Leg., p. 367, ch. 232, § 1.

Emergency. Effective May 17, 1951.

Art. 7081. Issuance of permit

Permits to transact business shall be issued by the Comptroller upon applications made upon form prescribed by the Comptroller, which application shall show, to the satisfaction of the Comptroller, the facts required to be shown in the permit; and shall show that the applicant has paid the gross receipts taxes prescribed by law, or that if the applicant is the vendee of a going business that his vendor has paid all his gross receipts taxes due, or to become due; such taxes are to be shown to be paid for the current quarter, or such other period of time as said taxes may be paid. The Comptroller after determining that such taxes have been paid, shall then issue a permit to transact business, authorizing the party to whom issued to transact business until the 31st day of December of the current year, after which date new permits for each year must be obtained, as in the first instance. The payment of One Dollar (\$1) will be required with each gross receipts tax application to defray the cost of issuing said permit. As amended Acts 1951, 52nd Leg., p. 367, ch. 232, § 1.

Art. 7082. Suspension of permit

Within thirty (30) days after gross receipts taxes may become due by any one transacting or authorized to transact business hereunder, if such tax remains unpaid the Comptroller shall notify the delinquent taxpayer that his tax is unpaid and that unless the tax is paid to the Comptroller within ten (10) days from the date of such notice the permit to transact business of the delinquent will be suspended by the State Comptroller. The notice herein provided for shall be given by the State Comptroller, mailing to the delinquent at his last known address a printed or written notice, and the mailing of such notice shall be a sufficient compliance of this law. If the tax, with accrued penalties, is not paid within fifteen (15) days after the mailing of the notice, the State Comptroller shall note on his records that the permit to transact business of the delinquent has been suspended, giving the date upon which such action was taken by the State Comptroller. The State Comptroller shall then immediately certify such suspension to the Attorney General. After the permit to transact business has been suspended, it shall be unlawful for the delinquent to continue to transact business, and it shall be the duty of the State Comptroller to cause to be published in some daily or weekly paper, published in the county of the delinquent's place of business, or if there is no newspaper published in such county, then in some daily newspaper of State-wide circulation, notice that the delinquent's permit to transact business has been suspended. As amended Acts 1951, 52nd Leg., p. 367, ch. 232, § 1.

CHAPTER THREE—FRANCHISE TAX

Article 7084. Amount of tax

(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, or doing business in Texas, shall, on or before May first of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures (outstanding bonds, notes and debentures shall include all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue, and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended by the issuance of other evidence of same indebtedness to the same or other parties, and it is further provided that this term shall not include instruments which have been previously classified as surplus), as the gross receipts from its business done in Texas bear to the total gross receipts of the corporation from its entire business, which tax shall be computed on the basis of One Dollar and Twenty-five Cents (\$1.25) per One Thousand Dollars (\$1,000) or fractional part thereof; provided, that such tax shall not be less than Twenty-five Dollars (\$25) in the case of any corporation, including those without capital stock, and provided further that the tax shall in no case be computed on a sum less than the assessed value, for County ad valorem tax purposes, of the property owned by the corporation in this State. Capital stock as applied to corporations without capital stock shall mean the net assets.

(2) Corporations, other than those enjoying the use of public highways by virtue of a certificate of public convenience and necessity granted by the Railroad Commission of Texas, which are required by law to pay annually a tax upon intangible assets, and corporations owning or operating street railways or passenger bus systems in any city or town and suburbs thereof, and corporations organized to and maintaining or owning or operating electric interurban railways, shall be required to hereafter pay a franchise tax equal to one-fifth ($1/5$) of the franchise tax herein imposed against all other corporations under Section (1) herein.

(3) Except as provided in preceding Clause (2), all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility as defined by the laws of Texas whose rates or services are regulated, or subject to a regulation in whole or in part, by law, shall pay a franchise tax as provided in this Article, except the same shall be based on that proportion of the issued and outstanding capital stock, surplus, and undivided profits, which the gross receipts of the business of said corporation done in this State bear to its total gross receipts instead of the gross assets; and in lieu of the rate hereinbefore prescribed said tax shall be computed on the basis of One Dollar and Twenty-five Cents (\$1.25) per One Thousand Dollars (\$1,000) or fractional part thereof.

For the purpose of computing the tax of corporations issuing no par stock, such stock shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such stock shall furnish the Secretary of State with the same information now required of domestic corporations issuing such stock.

The tax levied herein shall in no case be computed on a sum less than the assessed value, for County ad valorem tax purposes, of the property owned by the corporation in this State.

(4) Corporations engaged partly in the business of a public utility as defined in Clause (3) and partly in business embraced in Clause (1) shall pay the franchise tax in the following manner: as to those businesses which come under Clause (1) the tax shall be computed as provided in Clause (1) on that proportion of the entire taxable capital under said Clause (1) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and to those businesses which come under Clause (3) the tax shall be computed as provided in Clause (3) on that proportion of the entire taxable capital under said Clause (3) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be for the same period used in computing the proportion of Texas taxable capital under Clauses (1) and (3).

(5) Corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charter, shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth (1/4) of such amount for each additional purpose named in their charters. Provided, however, this Article shall not apply to corporations organized under the Electric Cooperative Corporation Act. Provided however, this Article does not amend, alter, or change in anywise any provision of Chapter 86, Page 163, Forty-fifth Legislature, Acts, 1937¹, and provided further that nothing in this Article shall repeal any total exemption from franchise taxes now provided by law. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § IX.

¹ Article 1528b.

Emergency. Effective Sept. 1, 1951.

Art. 7094. 7403 Corporations exempt

The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, or any transportation company, or to any corporation organized as a terminal corporation not organized for profit and having no income from the business done by it, or to any sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any city or town, or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public charity, or to State-chartered building and loan associations, or to any mutual investment company registered under the Federal Investment Company Act of 1940,¹ as from time to time amended, which holds stocks, bonds, or other securities of other companies solely for mutual investment purposes. As amended Acts 1951, 52nd Leg., p. 245, ch. 143, § 1.

¹ 15 U.S.C.A. §§ 80a-1 to 80a-52.

Effective 90 days after June 8, 1951, date of adjournment.

Article 7096. 7405 Forfeiture of charter

Upon the rendition by the district court of any judgment of forfeiture under the provisions of this chapter, the clerk of that court shall forthwith mail to the Secretary of State a certified copy of such judg-

ment; and, upon receipt thereof, he shall endorse upon the record of such charter in his office the words, "Judgment of forfeiture," and the date of such judgment. In the event of an appeal from such judgment by writ of error or otherwise, the clerk of the court from which such appeal is taken shall forthwith certify to the Secretary of State the fact that such appeal has been perfected, and he shall endorse upon the record of such charter in his office the word, "Appealed," and the date upon which such appeal was perfected. When final disposition of such appeal shall be made, the clerk of the court making such disposition thereof shall forthwith certify such disposition and the date thereof to the Secretary of State, who shall briefly note same upon the record of such charter in his office and the date of such final disposition.

Upon determination by the Secretary of State that any domestic corporation whose right to do business has been previously forfeited by that officer, and which corporation has failed and refused to have its right to do business revived pursuant to the provisions of this chapter, and which corporation fails to revive its right to do business prior to the first day of January next succeeding the date of forfeiture of its right to do business, and which corporation has no assets from which a judgment for the franchise tax, penalties, and court costs may be satisfied, and approval of such determination by the Attorney General, the charter of any such corporation may be forfeited, which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the charter of such corporation filed in his office, the words, "Charter forfeited," giving the date thereof and citing this Act as authority therefor. As amended Acts 1951, 52nd Leg., p. 375, ch. 239, § 1.

Emergency. Effective May 17, 1951.

Section of the amendatory Act of 1951,

provided that this Act shall be cumulative of all existing laws on this subject.

CHAPTER SIX—PROPERTY SUBJECT TO TAXATION AND RENDITION

Art. 7151. 7508, 5066 When to be rendered; condemning authorities considered owners when

All property shall be listed for taxation between January 1st and April 30th 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 1st and December 31st 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 or any other body politic 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 1951, 52nd Leg., p. 859, ch. 484, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER SEVEN—ASSESSMENT AND ASSESSORS

Arts. 7228–7241. Repealed. Acts 1951, 52nd Leg., p. 361, ch. 226, § 1, Eff. 90 days after June 8, 1951, date of adjournment

The repealing act contained a preamble reciting that there are no unorganized counties, that the Board of Equalization created by the repealed articles has no functions and that no moneys remain to the credit of unorganized counties with the Comptroller sections 2 and 3 of the act read as follows:

"Sec. 2. Any party who, prior to the effective date of this Act, has an existing right to appeal from the Comptroller's assessment on land in unorganized counties to the Board of Equalization, as provided in Article 7231, Revised Civil Statutes of

Texas, 1925, shall make such appeal to the Commissioners Court sitting as a Board of Equalization of the county in which the land is situated within one hundred and twenty (120) days from the effective date of this Act.

"Sec. 3. The repeal of the above Statutes shall not affect sales of lands valid under the provisions therein, nor shall any title to land having vested under its provisions be impaired thereby, nor shall this repeal apply to any other rights which have accrued under the above provisions prior to the taking effect of this Act."

CHAPTER EIGHT—COLLECTION AND COLLECTOR

Art. 7264b. Repealed. Acts 1951, 52nd Leg., p. 313, ch. 189, § 1. Eff. 90 days after June 8, 1951, date of adjournment

The emergency section of the repealing act recited that the repealed act im-

posed an unnecessary burden on county clerks and county auditors.

Art. 7298. 7662 Limitation not available

No delinquent taxpayer shall have the right to plead in any court or in any manner rely upon any Statute of Limitation by way of defense against the payment of taxes due from him or her to the State, or any county, city, town, Navigation District, Drainage District, Road District, Levee Improvement District, Reclamation District, Irrigation District, Water Improvement District, Water Control and Improvement District, Water Control and Preservation District, Fresh Water Supply District, School District or other taxing authority; provided that this law shall not apply to collection of delinquent school taxes assessed prior to July 1, 1941. As amended Acts 1951, 52nd Leg., p. 244, ch. 142, § 1.

Emergency. Effective May 7, 1951.

CHAPTER TEN—DELINQUENT TAXES

Art.

7321a. Counties of 500,000 population; compilation of delinquent tax record [New].

Art.

7335b. Full time city attorney not employed; failure or refusal to act [New].

Art. 7321a. Counties of 500,000 population; compilation of delinquent tax record

In all counties in this State having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, or any future Federal Census, the County Tax Collector may cause to be compiled a delinquent tax record of delinquent taxes not barred, where such county has as many as two (2) years delinquency, and the compiled delinquent records shall be examined by the Commissioners Court and Comptroller or Governing Body. The payment for the compilation of such delinquent tax records shall be authorized at actual cost to the Tax Collector, proportionately from each the State and county taxes, or municipal fees collected from such record, such cost in no case to exceed a sum equal to Eight Cents (8¢) per item or written line on the original copy of such record, and in no instance is any compiling cost to be charged to the taxpayer, such cost per item or written line to include all corrections that are ordered made by the Commissioners Court and the Comptroller or Governing Body, and when found correct, the delinquent tax record shall be approved by them. When there are as many as two (2) years of delinquency accumulated taxes which are not shown on the tax record, a recompilation or a two (2) year supplement thereto shall then be made. The Tax Collector shall cause to be compiled like records of taxes delinquent due any district for which they collect from tax rolls other than the State and county rolls and when approved by the Governing Body of the district, the cost of same shall be allowed in the manner herein provided for compiling of records of delinquent State and county taxes. Such delinquent tax records, when approved, shall be prima-facie evidence of the delinquency shown thereon. Acts 1951, 52nd Leg., p. 289, ch. 171, § 1.

Emergency. Effective May 3, 1951.

Section 2 of the Act of 1951 provided that 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, subsec-

tion, 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 3 repealed all conflicting laws and parts of laws.

Art. 7332. 7691 Other fees

The County or District Attorney shall represent the State and county in all suits against delinquent taxpayers, and all sums collected shall be paid over immediately to the County Collector.

Before filing suits for recovery of delinquent taxes for any year, notice shall be given to the owner or owners of said property as is provided for in Article 7324 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 117, page 196, Acts of the 42nd Legislature, Regular Session. The fees herein provided for shall not accrue to nor shall the various officers herein named be entitled thereto in any suit unless it be proved that notice has been given to the owner for the time and in the manner provided by law.

In all cases, the compensation of said Attorney shall be Five (\$5.00) Dollars for the first tract and Two Dollars and Fifty Cents (\$2.50) for each additional tract up to four, but said fee in no case to exceed Twelve Dollars and Fifty Cents (\$12.50). And provided that in any suit brought against any individual or corporate owner, all past due taxes for all previous years on such tract or tracts shall be included; and provided further, that where there are several lots in the same addition or subdivision delinquent, belonging to the same owner, all said delinquent lots shall be made the subject of a single suit.

All fees provided for the officers herein shall be treated as fees of office and accounted for as such, and said officers shall not receive nor retain said fees in excess of the maximum compensation allowed said officers under the laws of this State; and provided further, that the County Attorney, Criminal District Attorney or District Attorney shall not be entitled to the fees herein provided for in instances where such delinquent taxes are collected under contracts between the Commissioners Court and others for the collection of such taxes, and in such instances the fees herein provided for such officers shall not be assessed nor collected.

The sheriff or constable of the county in which the suit is pending shall receive such fees as are now allowed by law in other civil cases which will cover the service of all process, and the selling of the property and executing deeds for same. If, in any such suit, process is issued to be served in counties other than the one in which suit is pending, the sheriff or constable serving same shall receive a fee of Two Dollars and Fifty Cents (\$2.50) in each suit for his services.

The District Clerk shall receive for his services the same scale of fees as allowed by law in other civil cases.

The County Clerk shall receive One (\$1.00) Dollar in full for his services in each case.

Provided that the fees herein provided for in connection with delinquent tax suits shall constitute the only fees that shall be charged by said officers for preparing, filing, instituting, and prosecuting suits on delinquent taxes and securing collection thereof, and all laws in conflict herewith are hereby repealed.

In case the delinquent tax-payer shall pay to the collector the amount of delinquent taxes for which he is liable, together with accrued interest after the filing of suit before judgment is taken against him in the case, then only one-half of the fees taxable in such a case, as provided for herein, shall be charged against him.

Sec. 2. In suits by counties against any of the officers herein named to recover moneys or fees collected by any such officers, limitation of action shall not apply, and no such suit shall be barred by the Statute of Limitation. As amended Acts 1951, 52nd Leg., p. 538, ch. 316, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 7333. 7691 Fees taxed as costs; liability of state or county

In each case such fees shall be taxed as costs against the lands to be sold under judgment for taxes, and paid out of the proceeds of sale of same after the taxes, penalty and interest due therein are paid, and in no case shall the State or county be liable therefor except that where the State or other taxing unit is the successful bidder at the tax sale, all charges due newspapers for the publishing of citations and notices of sheriff's sale shall be paid by the county and State and other taxing units in proportion

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

to the taxes adjudicated to each. As amended Acts 1951, 52nd Leg., p. 576, ch. 334, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the amendatory act of 1951 read as follows: "If any portion of this Act is declared to be unconstitutional by a court of competent jurisdiction, the same

shall not affect the remaining portions of the Act."

Section 3 repealed conflicting laws and parts of laws to the extent of the conflict.

Art. 7335b. Full time city attorney not employed; failure or refusal to act

Any city or town of this State not employing a full time city attorney, or where such full time city attorney fails or refuses to collect the delinquent taxes, such city or town may contract with any competent attorney of this State for the collection of such delinquent taxes, and he shall receive for this service the same amount as now allotted attorneys collecting delinquent taxes for the State and county; and any part time city attorney may enter into such contract. Added Acts 1951, 52nd Leg., p. 247, ch. 145, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the act of 1951 repeals conflicting laws and parts of laws to the extent of the conflict only.

Art. 7336f. Remission of delinquent taxes, compilation of record of delinquent taxes not barred

Section 1. The collection of all delinquent, ad valorem taxes due the State, county, municipality or other defined subdivision that were delinquent prior to December 31, 1919, is forever barred.

Sec. 2. Any county having as many as two (2) years taxes delinquent which have not been included in the delinquent tax record, the Assessor-Collector of taxes shall within two (2) years from the effective date of this Act, cause to be compiled a delinquent tax record of all delinquent taxes not barred by this Act. The form of the delinquent tax record shall be prescribed by the Comptroller of Public Accounts. In addition to the information or data that may be required on the form prescribed by the Comptroller the delinquent tax record shall contain substantially the following:

a. Items described under grantee name and abstract number shall be shown first on the record; abstracts shall appear in numerical order by abstract number. In certain abstracts which have been platted into tracts, lots and blocks, divisions or subdivisions items may be shown according to the platting of the particular abstract.

b. Cities, towns and villages shall appear in alphabetical order.

c. Additions to the respective cities and towns shall be shown under the city or town to which same is attached, and in alphabetical order by addition name.

d. Within the original plat of any city or town and within additions the blocks shall appear in numerical order by block number, if numbered blocks, and alphabetically, if lettered blocks.

e. Within the block lots shall appear in numerical order by lot number, if numbered lots, and alphabetically, if lettered lots.

f. Mineral, Lease and Royalty items may be shown in a separate section of the record and/or with the fee items. If Mineral, Lease and Royalty items are shown in a separate section of the record such items may

appear in alphabetical order by owner name and/or as herein provided for lands and platted property.

g. Items having insufficient descriptions may appear in alphabetical order by owner name under any section of the record to which same may be correctly attached and/or in a separate section of the record.

h. In all instances items arranged and shown on the record as herein provided shall appear with the years in chronological order beginning with the earliest year delinquent.

The delinquent tax record shall be examined by the Commissioners Court or governing body and the Comptroller, corrections may be ordered made, and when found correct and approved by them, payment for the compilation thereof shall be authorized at actual cost to the Tax Assessor-Collector, proportionately from each State and County taxes, district taxes, or municipal taxes, first collected from such record, such cost in no case to exceed a sum equal to Eight Cents (8¢) per item or written line of the original copy of such record and in no event shall any compiling cost be charged to the taxpayer. The delinquent tax record when approved, shall be prima-facie evidence of the delinquency shown thereon; and when there shall be as many as two (2) years of delinquency accumulated which are not shown on the record, a recompilation, or a two-year supplement thereto shall then be made as herein provided. The Tax Assessor-Collector shall cause to be compiled like records of taxes delinquent due any district for which he collects from tax rolls other than the State and County rolls, and when approved by the governing body of the particular district, the cost of same shall be allowed in the manner herein provided. If any Tax Assessor-Collector fails to compile the delinquent tax record or recompile or supplement as provided for in this Act all fees, commissions, payments or compensations accruing to him for the collection of delinquent taxes, shall be held in abeyance until such delinquent tax record has been compiled; provided however should the Commissioners Court and Comptroller of Public Accounts find in any instance the Tax Assessor-Collector was unable to comply with the requirements of this Act relative to compiling delinquent tax records because of the maximum compensation herein fixed this provision shall not be applicable. If for any reason the Assessor-Collector of taxes and his regular deputies are unable to perform the duties required by this Act, then such Assessor-Collector shall contract with a competent person, or persons, to compile, recompile or supplement the delinquent tax record, as the case may be, at a fee not to exceed Eight Cents (8¢) per item or written line of the original copy of such record. Any contract entered into by the Assessor-Collector and some person to perform this service shall be approved by the Commissioners Court and Comptroller of Public Accounts. As amended Acts 1951, 52nd Leg., p. 304, ch. 181, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Sections 2 and 3 of the amendatory act of 1951, read as follows:

"Sec. 2. All laws or parts of laws in conflict herewith are repealed in so far as a conflict exists with the provisions of this Act; and provided further, that the provisions of this Act shall be cumulative to

the provisions of Chapter 10, Title 122, Delinquent Taxes, of Revised Civil Statutes, 1925, and amendments thereto.

"Sec. 3. If any part of this Act is declared to be invalid or unconstitutional, the remainder of this Act shall not be invalidated."

Art. 7345b. Suits for delinquent taxes by taxing units

Subrogation of purchaser at void sale

Sec. 10a. The purchaser at a void or defective tax judicial sale shall be subrogated to the rights of the taxing units in whose favor the judgment was entered, to the same extent and effect as would a purchaser be subro-

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

gated to the rights of judgment creditors other than taxing units; and the purchaser at a void or defective judicial tax lien foreclosure sale shall be subrogated to the rights and tax liens of the taxing units in whose favor the judgment was entered, to the same extent and effect as would a purchaser be subrogated to the rights and liens had he purchased at a void or defective mortgage or other lien foreclosure sale, and shall be an assignee of the liens foreclosed, and be entitled to a re-foreclosure of the lien or liens to which he was thereby subrogated; provided, however, that such subrogation shall extend only to the amount of the tax actually paid by the purchaser at such void or defective judicial tax lien foreclosure sale. Added Acts 1951, 52nd Leg., p. 810, ch. 454, § 1.

Section 2 of the act of 1951 read as follows: "If any portion of this Act is declared to be unconstitutional by a court of competent jurisdiction, the same shall not affect the remaining portions of the Act."

Section 3 repealed conflicting laws and parts of laws to the extent of the conflict.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 125A.—TRUSTS AND POWERS**POWERS [NEW]**

Art.

7425c. Release of powers of appointment.

POWERS [NEW]**Art. 7425c. Release of powers of appointment****Definitions**

Section 1. When used in this Act, unless the context otherwise requires:

(a) "Power" means any power to appoint or designate to whom property shall go, any power to invade or consume property, any power to alter, amend or revoke any instrument under which an estate or trust is held or created or to terminate any right or interest thereunder, and any power remaining where one or more partial releases have heretofore or hereafter been made with respect to a power, whether heretofore or hereafter created or reserved, whether vested, contingent or conditional, and whether classified in law or known as a power in gross, a power appendant, a power appurtenant, a collateral power, a general, special or limited power, an exclusive or non-exclusive power, or otherwise, and irrespective of when or in what manner a power, as herein defined, was created or reserved, or when, in what manner, or in whose favor, it may be exercised; provided, however, that the word "power" shall not include a power in trust which is imperative, and this Act shall not apply thereto.

(b) "Donee" means any person, whether resident or non-resident of this State, who, either alone or with another or others, has the right to exercise a power.

(c) "Objects", when used in connection with a power, means the persons in whose favor the power may be exercised.

(d) "Property", when used in connection with a power, means any and all property, whether real or personal, any and all interest in property, and any and all income from property, which is subject to the power, and includes any part of the property, any part of the interest in property, and any part of the income from property.

(e) "Release" means renunciation, relinquishment, surrender, refusal to accept, extinguishment, and any other form of release. "Release" shall likewise include a covenant not to exercise a power, either in whole or in part.

Donee may release power

Sec. 2. Unless the instrument creating the power specifically provides to the contrary, the donee of a power may:

(A) At any time completely release his power;

(B) At any time or times release his power (a) as to any property which is subject thereto; (b) as to any one or more of the objects thereof; or (c) so as to limit in any other respect the extent to which it may be exercised.

Requisites of release; delivery

Sec. 3. A release of a power, whether partial or complete, shall be valid and effective, with or without a consideration, when the donee thereof executes and acknowledges, in the manner required by law for

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

execution and recordation of deeds, an instrument evidencing an intent to make the release, and delivers the instrument or causes it to be delivered, either:

(A) To any person or in any manner specified for such purpose in the instrument creating the power; or

(B) To any adult person, other than the donee so releasing, who may take any of the property which is subject to the power in the event of its non-exercise or to one in whose favor it may be exercised after such partial release; or

(C) To any trustee or any co-trustee of the property which is subject to the power; or

(D) By filing the same with the County Clerk for recordation in the Deed Records of any county in the State of Texas in which any property subject to such power is situated, or in which the donee, if in control of the property resides, or in which the trustee in control of the property resides, or in which a corporate trustee in control of the property has its principal office, or in which the instrument creating the power is probated or recorded.

Powers exercisable by two or more donees

Sec. 4. If a power is or may be exercisable by two or more donees, either in an individual or fiduciary capacity in conjunction with one another or successively, a release thereof in whole or in part by any one or more of the donees shall not, unless the instrument creating the power otherwise provides, prevent or limit the exercise or participation in the exercise thereof by the other donee or donees.

Notice of release

Sec. 5. (A) No fiduciary or other person, association or corporation having the possession or control of any property subject to a power (other than the donee thereof) shall be deemed to have notice of a release of the power unless and until the original or a copy of the release is delivered to such fiduciary or other person, association or corporation.

(B) No purchaser, lessee or mortgagee, for a valuable consideration, of real property subject to a power who is without actual notice shall be deemed to have notice of a release of the power unless and until the instrument effecting such release, or a proper copy thereof, is filed with the County Clerk of the county in which the particular real property so purchased, leased, or mortgaged is situated, for recordation in the Deed Records of such county.

Recording and indexing

Sec. 6. County Clerks are authorized and directed to record releases in the Deed Records of their respective counties, and to index the same, the name of the donee being entered in the grantor index, and to charge therefor at the rate applicable to deeds.

Failure to deliver or file

Sec. 7. Failure to deliver or file an instrument releasing a power, or a copy of such instrument, as provided in Sections 4 and 5 of this Act, shall not affect the validity of the release as to the donee or objects thereof or as to any other persons except those expressly protected by the provisions of said sections.

Release by guardian

Sec. 8. A power held by a person under a disability and for whose estate a guardian has been or may be appointed, may be released, in the

manner hereinabove provided, by the guardian of such person's estate, upon order of the County Court of the county in the State of Texas in which such guardian shall have been appointed or in which the guardianship proceeding shall be pending.

Power held by married woman

Sec. 9. A power held by a married woman may be released by her, in the manner hereinabove provided, without the joinder of her husband, unless his joinder would be required in the exercise of such power, in which event his joinder shall be required.

Restraints of alienation or anticipation

Sec. 10. Release of a power otherwise releasable shall not be prevented merely by provisions in restraint of alienation or anticipation contained in the instrument creating the power.

Rights and means not exclusive

Sec. 11. The rights and means provided for in this Act for the release of a power are not exclusive, but are in addition to all other rights and means of a donee to release a power in whole or in part.

Releases prior to enactment of law

Sec. 12. Nothing in this Act shall invalidate any valid release made prior to the enactment hereof, and all releases made prior to such enactment, which are not valid under law then existing but which are in substantial compliance with the requirements hereof, are hereby validated, unless the power intended to be affected by such an invalid release was thereafter, but prior to the enactment hereof, exercised.

Declaratory of common law; liberal construction; applicability

Sec. 13. This Act shall, so far as possible, be deemed to be declaratory of the common law of the State of Texas and shall be liberally construed so as to effectuate the intent that all powers whatsoever, except powers in trust which are imperative, shall be releasable unless otherwise expressly provided in the instrument creating the power.

Conflict with other laws

Sec. 14. Insofar as the provisions of this Act may conflict with other Acts or parts thereof, the provisions of this Act shall control.

Partial invalidity

Sec. 15. If any provisions of this Act or the application thereof is held invalid, such invalidity shall not affect the 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 1951, 52nd Leg., p. 316, ch. 193.

Emergency. Effective May 17, 1951.

Title of Act:

An Act providing for the release, in whole or in part, of certain powers of appointment, the manner and form of accomplishing such releases, the legal effect of

such releases, the validation of certain of such releases executed prior to the effective date of this Act; and declaring an emergency. Acts 1951, 52nd Leg., p. 316, ch. 193.

TITLE 126—TRUSTS—CONSPIRACIES AGAINST TRADE

1. DEFINITIONS, FORFEITURES AND OTHER PROVISIONS

Art.

7428—1. Agreements denying right to work because of union membership or nonmembership [New].

Art.

7428—2. Migratory farm laborers [New].

1. DEFINITIONS, FORFEITURES AND OTHER PROVISIONS

Art. 7428—1. Agreements denying right to work because of union membership or non-membership

It shall constitute a conspiracy in restraint of trade for any employer and any labor union or labor organization or other organization to enter into any agreement or combination whereby persons are denied the right to work for an employer because of membership or non-membership in such union, labor organization or other organization; or whereby such membership or non-membership is made a condition of employment or of continuation of employment by an employer. Added Acts 1951, 52nd Leg., p. 1196, ch. 494, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 3 of the act of 1951 read as follows: "If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act or 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 it would have passed such remaining portions despite such invalidity."

Section 4 repealed conflicting laws and parts of laws.

Art. 7428—2. Migratory farm laborers

Nothing herein shall be construed to make unlawful any act or agreement by which any person, group or organization refers for employment, or agrees to refer for employment, migratory farm laborers who harvest or otherwise work on seasonal agricultural crops if such persons, groups or organizations refer persons for employment regardless of whether the persons so referred do or do not belong to a union or labor organization. Acts 1951, 52nd Leg., p. 1196, ch. 494, § 2.

TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

CHAPTER ONE—USE OF STATE WATER

1. PUBLIC RIGHTS

Art.
7466h. Canadian River Compact [New].

1. PUBLIC RIGHTS

Art. 7466h. Canadian River Compact

Compact ratified; text of compact

Section 1. The Canadian River Compact entered into and signed at Santa Fe, New Mexico, on December 6, 1950, by John H. Bliss, Commissioner for the State of New Mexico, E. V. Spence, Commissioner for the State of Texas, and Clarence Burch, Commissioner for the State of Oklahoma, and approved by Berkeley Johnson, representing the United States of America, an original counterpart of which has been deposited in the office of the Secretary of State for the State of Texas, is hereby, in all respects, ratified and confirmed, said Compact being as follows:

CANADIAN RIVER COMPACT

The State of New Mexico, the State of Texas, and the State of Oklahoma, acting through their Commissioners, John H. Bliss for the State of New Mexico, E. V. Spence for the State of Texas, and Clarence Burch for the State of Oklahoma, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting Canadian River as follows:

ARTICLE I

The major purposes of this Compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the States; and to provide for the construction of additional works for the conservation of the waters of Canadian River.

ARTICLE II

As used in this Compact:

(a) The term "Canadian River" means the tributary of Arkansas River which rises in northeastern New Mexico and flows in an easterly direction through New Mexico, Texas and Oklahoma and includes North Canadian River and all other tributaries of said Canadian River.

(b) The term "North Canadian River" means that major tributary of Canadian River officially known as North Canadian River from its source to its junction with Canadian River and includes all tributaries of North Canadian River.

(c) The term "Commission" means the agency created by this Compact for the administration thereof.

(d) The term "conservation storage" means that portion of the capacity of reservoirs available for the storage of water for subsequent release for domestic, municipal, irrigation and industrial uses, or any

of them, and it excludes any portion of the capacity of reservoirs allocated solely to flood control, power production and sediment control, or any of them.

ARTICLE III

All rights to any of the waters of Canadian River which have been perfected by beneficial use are hereby recognized and affirmed.

ARTICLE IV

(a) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River above Conchas Dam.

(b) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River in New Mexico below Conchas Dam, provided that the amount of conservation storage in New Mexico available for impounding these waters which originate in the drainage basin of Canadian River below Conchas Dam shall be limited to an aggregate of two hundred thousand (200,000) acre-feet.

(c) The right of New Mexico to provide conservation storage in the drainage basin of North Canadian River shall be limited to the storage of such water as at the time may be unappropriated under the laws of New Mexico and of Oklahoma.

ARTICLE V

Texas shall have free and unrestricted use of all waters of Canadian River in Texas, subject to the limitations upon storage of water set forth below:

(a) The right of Texas to impound any of the waters of North Canadian River shall be limited to storage on tributaries of said River in Texas for municipal uses, for household and domestic uses, livestock watering, and the irrigation of lands which are cultivated solely for the purpose of providing food and feed for the householders and domestic livestock actually living or kept on the property.

(b) Until more than three hundred thousand (300,000) acre-feet of conservation storage shall be provided in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs in the drainage basin of Canadian River east of the 97th meridian, the right of Texas to retain water in conservation storage, exclusive of waters of North Canadian River, shall be limited to five hundred thousand (500,000) acre-feet; thereafter the right of Texas to impound and retain such waters in storage shall be limited to an aggregate quantity equal to two hundred thousand (200,000) acre-feet plus whatever amount of water shall be at the same time in conservation storage in reservoirs in the drainage basin of Canadian River in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs east of the 97th meridian; and for the purpose of determining the amount of water in conservation storage, the maximum quantity of water in storage following each flood or series of floods shall be used; provided, that the right of Texas to retain and use any quantity of water previously impounded shall not be reduced by any subsequent application of the provisions of this paragraph (b).

(c) Should Texas for any reason impound any amount of water greater than the aggregate quantity specified in paragraph (b) of this Article, such excess shall be retained in storage until under the provisions of said paragraph Texas shall become entitled to its use; provided, that, in event of spill from conservation storage, any such excess shall be reduced by

the amount of such spill from the most easterly reservoir on Canadian River in Texas; provided further, that all such excess quantities in storage shall be reduced monthly to compensate for reservoir losses in proportion to the total amount of water in the reservoir or reservoirs in which such excess water is being held; and provided further that on demand by the Commissioner for Oklahoma the remainder of any such excess quantity of water in storage shall be released into the channel of Canadian River at the greatest rate practicable.

ARTICLE VI

Oklahoma shall have free and unrestricted use of all waters of Canadian River in Oklahoma.

ARTICLE VII

The Commission may permit New Mexico to impound more water than the amount set forth in Article IV and may permit Texas to impound more water than the amount set forth in Article V; provided, that no State shall thereby be deprived of water needed for beneficial use; provided further that each such permission shall be for a limited period not exceeding twelve (12) months; and provided further that no State or user of water within any State shall thereby acquire any right to the continued use of any such quantity of water so permitted to be impounded.

ARTICLE VIII

Each State shall furnish to the Commission at intervals designated by the Commission accurate records of the quantities of water stored in reservoirs pertinent to the administration of this Compact.

ARTICLE IX

(a) There is hereby created an interstate administrative agency to be known as the "Canadian River Commission." The Commission shall be composed of three (3) Commissioners, one (1) from each of the signatory States, designated or appointed in accordance with the laws of each such State, and if designated by the President an additional Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum. A unanimous vote of the Commissioners for the three (3) signatory States shall be necessary to all actions taken by the Commission.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the three (3) States and be paid by the Commission out of a revolving fund hereby created to be known as the "Canadian River Revolving Fund." Such fund shall be initiated and maintained by equal payments of each State into the fund in such amounts as will be necessary for administration of this Compact. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Said fund shall not be subject to the audit and accounting procedures of the States. However, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public

accountant at regular intervals and the report of the audit shall be included in and become a part of the annual report of the Commission.

(c) The Commission may:

(1) Employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact;

(2) Enter into contracts with appropriate Federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records, and for the preparation of reports;

(3) Perform all functions required of it by this Compact and do all things necessary, proper, or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies.

(d) The Commission shall:

(1) Cause to be established, maintained and operated such stream and other gaging stations and evaporation stations as may from time to time be necessary for proper administration of the Compact, independently or in cooperation with appropriate governmental agencies;

(2) Make and transmit to the Governors of the signatory States on or before the last day of March of each year, a report covering the activities of the Commission for the preceding year;

(3) Make available to the Governor of any signatory state, on his request, any information within its possession at any time, and shall always provide access to its records by the Governors of the States, or their representatives, or by authorized representatives of the United States.

ARTICLE X

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States to the Indian Tribes;

(b) Subjecting any property of the United States, its agencies or instrumentalities, to taxation by any State or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any State or political subdivision thereof, state agency, municipality or entity whatsoever; in reimbursement for the loss of taxes;

(c) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any State to an extent other than the extent to which such laws would apply without regard to this Compact;

(d) Applying to, or interfering with, the right or power of any signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact;

(e) Establishing any general principle or precedent applicable to other interstate streams.

ARTICLE XI

This Compact shall become binding and obligatory when it shall have been ratified by the Legislature of each State and approved by the Congress of the United States. Notice of ratification by the Legislature of each State shall be given by the Governor of that State to the Governors of the other States and to the President of the United States. The President is hereby requested to give notice to the Governor of each State of approval by the Congress of the United States.

IN WITNESS WHEREOF, The Commissioners have executed four (4) counterparts hereof, each of which shall be and constitute an original,

one (1) of which shall be deposited in the archives of the Department of State of the United States, and (1) of which shall be forwarded to the Governor of each State.

DONE at the City of Santa Fe, State of New Mexico, this 6th day of December, 1950.

/s/ John H. Bliss

John H. Bliss
Commissioner for the State of New Mexico

/s/ E. V. Spence

E. V. Spence
Commissioner for the State of Texas

/s/ Clarence Burch

Clarence Burch
Commissioner for the State of Oklahoma

APPROVED:

/s/ Berkeley Johnson

Berkeley Johnson
Representative of the United States of America

Texas member of Commission; appropriation

Sec. 2. The Governor shall appoint a suitable person as Commissioner for the State of Texas to serve as a member of the 'Canadian River Commission' as contemplated by Section (a) of Article IX of the Canadian River Compact set forth in Section 1 of said House Bill No. 63. The Commissioner so appointed shall have the powers and discharge the duties prescribed by the terms of said Compact. He shall be allowed his actual expenses in the discharge of his duties under said Compact, and shall have authority to meet and confer with the other members of the Canadian River Commission at such points within or without the State of Texas as the Commission may see fit. The sum of One Thousand Dollars (\$1,000) is hereby appropriated to the 'Canadian River Revolving Fund' as the prorata obligation of the State of Texas to such fund as provided for in Section (b) of Article IX of said Compact. The sum herein appropriated shall be made available on September 1, 1951, out of any funds in the State Treasury not otherwise appropriated and shall be paid out of the Treasury on warrant of the Comptroller upon sworn account of the Commissioner. As amended Acts 1951, 52nd Leg., p. 803, ch. 446, § 1.

Emergency. Effective June 15, 1951.

When provisions binding

Sec. 3. The provisions of the Canadian River Compact shall not become binding and obligatory until they shall have been duly ratified and approved by the Legislatures of New Mexico and Oklahoma and by the Congress of the United States of America.

Notice of ratification; certified copies of act

Sec. 4. It shall be the duty of the Governor of Texas to notify the Governors of New Mexico and Oklahoma and the President of the United States of the ratification by the State of Texas of the Canadian River Compact; and, on request of the Governor, the Secretary of State shall furnish to the Governors of New Mexico and Oklahoma and to the Presi-

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

dent of the United States a certified copy of this Act. Acts 1951, 52nd Leg., p. 260, ch. 153.

Emergency. Effective May 10, 1951.

Complementary Laws:

U.S.—Act April 29, 1950, c. 135, 64 Stat. 93.

N.Mex.—Laws 1951, ch. 4.

Okl.—Laws 1951, p. 327, 82 Okl.St. Ann. §§ 526.1-526.3.

Title of Act:

An Act approving and adopting the Canadian River Compact; appointing the State Board of Water Engineers to administer the provisions of the Compact; and declaring an emergency. Acts 1951, 52nd Leg., p. 260, ch. 153.

CHAPTER 3A—WATER CONTROL AND IMPROVEMENT DISTRICTS

Art.

7880—74a. Assessment and collection by county or city officers [New].
7880—147c8. Validating bonds and bond elections [New].

Art.

7880—147z1. Purchase of property and assets by city annexing all or part of territory [New].

Art. 7880—74a. Assessment and collection by county or city officers

Section 1. Instead of proceeding for the assessment, equalization, and collection of taxes in the manner elsewhere provided by Statute, when a majority of the Board of Directors of a Water Control and Improvement District, which assesses all of its taxes on an ad valorem basis, adopts a resolution to have the taxes of their District assessed and collected by the county assessor and collector, or by the city assessor and collector of an incorporated city or town in the limits of which the Water District is located, same shall be assessed and collected by said county or city officers, as may be determined by the Board of Directors of said Water District, and turned over to the treasurer of the Water District for which such taxes have been collected.

Sec. 2. When the county assessor and collector, or the city assessor and collector, is required to assess and collect the taxes of a Water Control and Improvement District, they shall respectively receive one per cent (1%) of the total taxes shown on the completed roll for assessing such taxes, and one (1%) per cent for collecting same; provided, however, that the compensation for the collection of delinquent taxes shall be five (5%) per cent of the amount collected. Acts 1951, 52nd Leg., p. 348, ch. 218.

Emergency. Effective May 17, 1951.

Title of Act:

An Act authorizing Boards of Directors of Water Control and Improvement Districts to adopt resolutions for the collection of taxes of districts by the county assessor and collector or by the city assessor and collector of an incorporated city or town in

which the district is located; providing for the assessing and collecting of taxes by county or city officers; providing the compensation for collecting and assessing taxes and providing the fee for collecting delinquent taxes; and declaring an emergency. Acts 1951, 52nd Leg., p. 348, ch. 218.

Art. 7880—76c. Excluding unirrigated lands from districts containing more than 100,000 acres

Unirrigated lands may be excluded

Section 1. Unirrigated lands within the boundaries of Water Control and Improvement Districts, now existing or hereafter created, containing within their boundaries more than thirty thousand (30,000) acres and obtaining the water furnished by their facilities from private corporations engaged in the business of irrigating lands, may be excluded therefrom and their liability for the bonded indebtedness of such

District may be limited and adjusted under the conditions and in the manner hereinafter provided. As amended Acts 1951, 52nd Leg., p. 179, ch. 114, § 1.

Emergency. Effective May 2, 1951.

Conditions under which lands may be excluded; petition; calling of hearing

Sec. 2. If any such District has an established and operating irrigation system from which only a part of the lands in said District can be irrigated, and if more than forty (40%) per cent of the lands in such District, by area, have never been and cannot be irrigated from such established irrigation system, the Board of Directors of such District may, and on petition signed by the owners of twenty (20%) per cent or more in assessed value of such unirrigated lands as shown by the most recent tax rolls in such District, shall call and hold a hearing for the purpose of determining whether or not all or any part or parts of such unirrigated land shall be excluded from said District and the liability of the lands so proposed to be excluded for the bonded indebtedness of said District limited or adjusted. As amended Acts 1951, 52nd Leg., p. 179, ch. 114, § 2.

Emergency. Effective May 2, 1951.

Consent of bondholders to release of lien

Sec. 7. Except as hereinafter otherwise provided the lien retained by the District to secure the payment of taxes levied and assessed, and to be levied and assessed; to secure the payment of the proportionate share of the bonded indebtedness upon such excluded lands, determined as herein provided, and which is outstanding at the time of such exclusion, shall remain in force and effect and shall not be released or extinguished unless and until the holders of one hundred per cent (100%) of the principal amount of the District's then outstanding and unpaid indebtedness shall consent and agree in writing to such release and to the terms and conditions upon which such excluded lands may be so relieved from such tax liability. As amended Acts 1951, 52nd Leg., p. 655, ch. 381, § 1.

Effect of consents—Action to determine validity of exclusion

Sec. 8. (a) In event the holders of one hundred per cent (100%) of the principal amount of the District's then outstanding and unpaid bonded indebtedness consent and agree in writing filed with the Directors of such District to the exclusion of such lands and to the terms and conditions of the resolution so excluding lands from said District and fixing the debt liability therefor, no further proceedings and no action in court as hereinafter provided for shall be required or necessary and such resolution so excluding lands from said District and fixing the debt liability therefor shall be and become final and effective and such lands shall be excluded from the District as of the date of the filing of such consent in writing of the bondholders thereto with the Directors of the District. A certified copy of such resolution shall be filed in the office of the County Clerk of the county or counties where such excluding District is situated, and all persons thereafter dealing with said Districts and its bonds shall be charged with notice thereof.

(b) Provided, however, that in event the holders of one hundred per cent (100%) of the principal amount of the District's then outstanding and unpaid bonded indebtedness do file such consent in writing with the Directors of the District; the Directors may, nevertheless, if they deem proper and determine to do so, bring an action in court to determine the validity and justness of the resolution and acts of said Board of Directors, as provided for in subdivision '(c)' of this Section as set forth herein

below; in which case the exclusion of lands from the District shall be and become effective as provided for in this Act in respect to such action in court.

(c) But in event such consent in writing of the holders of one hundred per cent (100%) of the principal amount of the District's then outstanding and unpaid bonded indebtedness is not filed with the Directors of the District within thirty (30) days after the date of the adoption of the resolution so excluding lands from said District and fixing the debt liability therefor, then said District may, if it so desires, within thirty (30) days after the adoption of any resolution so excluding lands from said District and fixing the debt liability therefor, bring an action in the District Court of any county of a judicial district in which said District, or any part thereof, may be situated, to determine the validity and justness of the resolution and acts of said Board of Directors in and by which such land or lands shall have been excluded and the debt liability thereof determined and fixed. Such action shall be in the nature of a proceeding in rem and jurisdiction of all parties interested may be had by publication of a general notice thereof once each week for at least two (2) consecutive weeks in some newspaper or newspapers of general circulation published in the county or counties in which such District or any part thereof is situated, and if no newspaper is published in said county or either of said counties, said notice shall be published in a paper published in an adjoining county to the county or to any county in which said District or any part thereof is situated. Said notice shall be addressed to all owners of land situated in, and taxpayers and bondholders of, said District (naming the District) and shall be signed by the Secretary of said District. Upon the filing of the petition of said District in said action the Judge of the Court in which it is filed shall set the same down for hearing, either in term time or vacation, at the earliest time, after making allowance for time for notice herein provided for, that the Court can conveniently hear the same, giving preference to said action over all other actions not of a like kind in order that a speedy determination as to the matters involved may be reached, and the time and place of said hearing shall also be stated in said notice. The said hearing may be heard on the date set therefor, or if justice to the parties or the convenience of the Court requires, the same may be postponed to a later date or dates, and when begun, the same may continue from day to day and time to time until completed. As amended Acts 1951, 52nd Leg., p. 655, ch. 381, § 2.

Hearing; decree; effect; filing; interlocutory decree dismissing proceedings, when

Sec. 11. At said hearing the Court shall try and determine all issues as in other civil cases, and if the Court be of the opinion and find that the actions of said Board of Directors in excluding said lands and fixing the debt liability thereof as set forth in said resolution are just and valid he shall render his decree so finding, and in all things approving, confirming and validating said actions of said Board, and such decree shall be final and binding on said District and all owners of land therein and all taxpayers and bondholders thereof and all persons interested in said District, and res judicata of all matters determined therein. In case such decree is rendered, a certified copy thereof and a certified copy of said resolution may be filed for record in the deed records of the county, and each of the counties, in which said excluded lands, or any part thereof, are situated.

From and after the filing of such decree, all persons thereafter dealing with said District and its bonds shall be charged with notice of the said decree and its contents.

But if the Court should find or determine that the said actions and resolutions of the said Board should not be approved or validated, he shall enter an interlocutory decree dismissing said proceedings, and set forth therein his objections to such actions and resolutions of said Board and his reasons for not approving and validating the same. If within sixty (60) days after the entering of such interlocutory decree or such further time as the Court may allow, the said Board of Directors shall amend said resolution in such manner as to meet and satisfy such objections of the Court, if such objections are legally curable, the Court may, upon filing a certified copy of such amended resolution in said cause, proceed with any further hearing necessary or proper, to set aside said interlocutory decree, and render final judgment approving, confirming and ratifying the actions and proceedings of said Board of Directors as shown by said amended resolution, and such judgment shall have like force and effect as above provided, and a certified copy thereof shall be filed with like effect as above provided.

If such amended resolution is not filed within said sixty (60) days, or any further time allowed by the Court, said interlocutory decree shall be made final. As amended Acts 1951, 52nd Leg., p. 655, ch. 381, § 3.

Emergency. Effective June 2, 1951.

Section 4 of the amendatory Act of 1951, provided that if said Chapter 119, Acts of the Regular Session of the Forty-seventh Legislature, as amended, and its application to any particular circumstances, should, for any reason, be held to be invalid, such decision shall not affect the application of said Act, as amended, to other

and different circumstances. The Legislature hereby declares that it would have passed and does pass 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 held to be invalid for any reason.

Payment by surrender of bonds

Sec. 17a. All or any portion of the lump sum paid to discharge any land excluded from a District under this Act from the tax and debt liability to said District and to the creditors thereof may be made by the surrender of bonds issued by the District and outstanding as a subsisting indebtedness of said District, if the Board of Directors of said District shall in its discretion elect to accept such bonds in lieu of cash payment. Added Acts 1951, 52nd Leg., p. 179, ch. 114, § 3.

Emergency. Effective May 2, 1951.

Art. 7880—90a. Alternative methods of securing bonds; pledge of revenues

This section shall apply to all water control and improvement districts which have, or which have expectancy for, net revenues from operations (to exclude all income from ad valorem taxes, specific assessments of benefits, or taxation upon the basis of dollars per acre, but to embrace all other income or revenues), in lieu of securing its bonds as provided in Section 90 (next foregoing), electively may provide for the payment of the same in any one of the following manners, to-wit:

1. as provided for by Section 90¹, next foregoing;
2. by entering into contracts for the pledge of the net revenues of the district and to mortgage and encumber any part or all of its properties and facilities and the franchise and revenues and income from the operation thereof and everything pertaining thereto acquired or to be acquired;
3. by securing the bonds in both manners 1 and 2.

The expression "net revenue", as used herein, shall be understood to exclude any money derived from taxation, but to include all income or increment which may grow out of the ownership and operation of the im-

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

improvements or facilities so encumbered, less such proportion of the district's revenue income as reasonably may be required to provide for the administration, efficient operation and adequate maintenance of the district's service facilities so encumbered.

In case such obligations are secured under method 3 foregoing, at such time as net revenues, together with the money derived from taxes, in the sinking fund may have accumulated a surplus equal to the sum to be required in the succeeding year to liquidate the interest and principal of the district's obligations maturing in that year, the district's annual tax levies may be lowered to produce not less than twenty-five (25%) per centum of the bond maturities for such succeeding year, until an actual experience of three successive years may demonstrate that the net revenues are wholly adequate to protect the maturities of the district's obligations; and, at such time the district's tax may be wholly abated, until further experience may demonstrate the necessity again to exert the district's taxing power in order to avoid default in the payment of the district's said obligations, as the same may mature; and

In case it is proposed to issue money obligations to be liquidated under method 2 or method 3, hereinabove authorized, at the election held for the authorization thereof, the proposition to be submitted under Section 81 of said Chapter 25 (Acts of the 39th Legislature, Regular Session)² shall be:

"For the issuance of bonds and the pledge of net revenues for the payment thereof";

And, the contrary thereof; or

"For the issuance of bonds, the pledge of net revenues and the lien on physical properties to secure payment thereof";

And, the contrary thereof; or

"For the issuance of bonds, the pledge of net revenues and the levy of taxes adequate to provide for the payment thereof";

And, the contrary thereof; to be as the proposal may require.

Districts which propose to issue bonds payable from, and secured by a pledge of, the net revenues and a lien on the physical properties, either or both, without the levy of taxes for any purpose, shall not be required to hold a hearing for the exclusion of land or for the adoption of a plan of taxation. In such case, the proposition for the issuance of such bonds may be submitted at the election held for the purpose of confirming the organization of the district or at an election called by the Board of Directors thereafter.

If a district issues its original bonds under method 2 above and later desires to issue bonds payable in whole or in part from taxation or to levy taxes for maintenance purposes, then before an election is called on the issuance of such tax supported bonds or the levy of maintenance taxes, such district shall hold a hearing on exclusion of lands and shall, at the time provided by law, also hold a hearing on the adoption of a plan of taxation. As amended Acts 1951, 52nd Leg., p. 346, ch. 217, § 1.

¹ Article 7880—90.

² Article 7880—81.

Section 2 of the amendatory Act of 1951, read as follows: "The provisions of this Act shall be cumulative of and in addition to other authority of water control and improvement districts to issue bonds, but as

to any proceedings under this Act, if any part or portion hereof is in conflict with any other law of this State, the terms and provisions of this Act shall govern as to such proceedings."

Art. 7880—147c8. Validating bonds and bond elections

Section 1. All bonds heretofore voted and issued or authorized by any water control and improvement district for any of the purposes set out in Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended, and all elections at which bonds were voted for the purposes set out in Chapter 3A, are hereby validated, ratified, approved, and confirmed notwithstanding the fact that the governing body of such district or districts may have failed to comply with all statutory requirements set out in said Chapter 3A, and notwithstanding that any election held by any such district or districts or any hearing provided for in said Chapter 3A may not in all respects have been ordered and held in accordance with statutory provisions; and when the Attorney General has approved such bonds and they have been registered by the Comptroller of Public Accounts of the State of Texas and sold and delivered, they shall be binding, legal, valid and enforceable obligations of such district or districts. Provided, however, that this Act shall apply only to such bonds as were authorized at an election or elections wherein at least a majority of the qualified property taxpaying voters voting thereat voted in favor of the issuance thereof.

Sec. 2. The organization of all water control and improvement districts, and all proceedings relating thereto, are hereby in all things validated.

Sec. 3. This Act shall not be construed as validating any district or bond proceedings or bonds issued or to be issued, the validity of which has been contested or attacked in any litigation pending at the time this Act becomes effective. Acts 1951, 52nd Leg., p. 215, ch. 127.

Emergency. Effective May 2, 1951.

Art. 7880—147z1. Purchase of property and assets by city annexing all or part of territory**Application of law**

Section 1. This Act shall apply to all cities, including Home Rule Cities, and those operating under general laws or special charters, which have heretofore annexed, or may hereafter annex, all or any part of the territory within a water control and improvement district containing not more than three thousand, five hundred (3,500) acres of land. It is expressly provided, however, that the terms and provisions of this Act shall not operate upon or be construed to apply to or affect any Water Control and Improvement District embracing in whole or in part the territory of any town or city having a population of one hundred thousand (100,000) or more inhabitants according to the last preceding Federal Census.

Purchase of assets and properties authorized

Sec. 2. Whenever any of the territory within any such district is so annexed, such city may and is hereby empowered and authorized to purchase and take over all assets and properties of or belonging to said district, whether situated within or without the boundaries of such city, including but not limited to all canals, ditches, lands, easements, right-of-ways, pumping plants, water rights, riparian or otherwise, statutory appropriations, accounts and cash on hand and to assume all debts, liabilities and obligations of such district in payment therefor.

Election

Sec. 3. Upon the adoption of a resolution by the governing body of such city evidencing the desire of and binding such city to purchase

the property and assets of, assume the debts, liabilities and obligations, and discharge the services and functions of such district, the Board of Directors of such district shall make and publish an order calling an election within and for such district for the purpose of determining whether or not such district shall be abolished and such sale of the district's properties and assets shall be made to such city in consideration of the assumption by such city of the debts, liabilities and obligations of such district. Said election shall be ordered within sixty (60) days after the adoption by such city of the aforesaid resolution, and shall be ordered, held and conducted in accordance with the laws of this State for the holding of bond elections in Water Control and Improvement Districts, except as herein otherwise provided. The ballots for such election shall contain substantially the following proposition:

"FOR the sale by _____ County Water Control and Improvement District Number _____ to the City of _____ of its property and assets in consideration of the assumption by such city of the debts, liabilities and obligations of such district, the discharge of its services and functions by such city and the abolishment of said district." and

"AGAINST the sale by _____ County Water Control and Improvement District Number _____ to the City of _____ of its property and assets in consideration of the assumption by such city of the debts, liabilities and obligations of such district, the discharge of its services and functions by such city and the abolishment of said district."

If a majority of the qualified voters of such district voting at such election vote in favor of such proposition, the Board of Directors of such district shall sell, transfer and convey to such city all of the properties and assets of such district, including but not limited to those enumerated in Section 2 hereof, for and in consideration of the assumption by such city of the debts, liabilities and obligations of such district. The governing body of such city shall, by ordinance, designate the date upon which such sale shall be effective and the city take over, but in no event later than ninety (90) days after the canvass of the returns of the aforesaid election.

If a majority of the qualified voters of such district voting at such election vote against such proposition, no other election shall be held in said district under the provisions of this Act and for the purpose of again submitting said proposition until the expiration of one (1) year from and after the date of said election.

Bonds

Sec. 4. When any district's bonds payable in whole or in part from ad valorem taxes have been assumed by such city, the governing body of such city shall thereafter levy and cause to be collected upon all taxable property within such city taxes sufficient to pay principal of, and interest on, such bonds as they respectively become due and payable. Such city shall be authorized to issue its refunding bonds to refund any bonds, including unpaid earned interest thereon, so assumed by it. Such refunding bonds shall be issued in the manner then provided by law for the issuance of refunding bonds by such city, provided that it shall not be necessary to give any notice of intention to issue such refunding bonds and no right of referendum thereon shall be available, nor shall any election for the issuance of such refunding bonds be necessary; provided, further, that it shall not be necessary for said bonds to be approved by the Attorney General and the Attorney General shall have no power to pass upon the same.

Assumption of functions and services of district

Sec. 5. After the purchase by said city of the assets and properties of such district and the assumption by said city of the debts, obligations and liabilities of said district, such city shall and is hereby expressly authorized and empowered to assume, perform and discharge the functions and services of such district, including the furnishing of water for domestic and irrigation purposes to those entitled to receive such water from said district at the time of such assumption.

Water Board; membership

Sec. 6. There is hereby created in such city an administrative department of said city to be known as the "City of _____ Water Board"; provided, however, that such Board shall not function or exercise its powers hereunder until the acquisition by such city of the assets and properties of such district and the assumption, performance and discharge by said city of the functions and services of such district. Said Board shall be composed of six (6) members to be known as Commissioners, one (1) of whom shall always be the Chief Executive Officer of said City; the other five (5) members to be initially the then duly elected and acting Directors of such district. The members of such Board, with the exception of said Chief Executive Officer, whose term of office as such member shall, in each case, coincide with his tenure as such Chief Executive Officer, shall serve for terms of two (2) years and until their successors shall have been duly appointed and have qualified by taking the oath prescribed by law for members of the governing body of said city. The respective terms of office of the members of the initial Board to function hereunder and in said city, with the exception of the Chief Executive Officer of said city, shall be determined in the following manner and by the following method:

Such Commissioners, having qualified by taking the aforesaid oath, shall draw by lot and the two (2) Commissioners drawing the number One shall serve for one (1) year and the three (3) Commissioners drawing the number Two shall serve for two (2) years. Upon expiration of the respective terms of said Commissioners, the successor of each and all of them shall be appointed thereafter for a term of two (2) years. Nothing herein shall be construed as to prevent any Commissioner from succeeding himself.

All vacancies in such Board, with the exception of the member serving on such Board by virtue of being the Chief Executive Officer of said city, whether caused by expiration of term of office, death, resignation or otherwise, shall be filled by a majority vote of the then remaining, acting and qualified members of such Board. All members of such Board, with the exception of the Chief Executive Officer of said city, must be qualified property owners residing in said city or in that part of the territory formerly comprising said District and not annexed by said city and owning taxable real property in said city or in said territory. A commissioner shall receive no compensation for his services. The Chief Executive Officer of such city shall serve as the Chairman of said Board, but said Board shall select from among its own Commissioners a Vice Chairman. The city secretary of said city shall serve as the secretary of said Board, and for such legal services as it may require said Board shall call upon the City Attorney of said city. Said Board shall determine what employees, temporary and permanent, it may reasonably require in the discharge of its functions and duties, and shall determine their qualifications and compensation; said employees to be appointed in the manner then provided for the appointment of other employees of

said city but to be selected from a list of eligible applicants prepared and submitted by said Board; and upon such appointment such employees shall be employees of said city entitled to all the rights and privileges and subject to all of the rules and regulations pertaining to such employees.

Powers of board; maintenance and operation charges

Sec. 7. Such Board shall have general supervision, control and management over the performance and discharge by said city of the services and functions of such district assumed by said city, including the furnishing of water for domestic and irrigation purposes to those entitled to receive water for such purposes from said District at the time of such assumption. Such Board shall have all of the powers delegated to it by said city, including all powers necessary for it to competently and efficiently discharge and perform, in behalf of said city, the services and functions so assumed by said city. Said Board shall annually determine and recommend to the governing body of said city, on or before the first day of December in each year, the amount of maintenance charges and water charges to be levied, assessed and collected by said city in the ensuing year in the performance and discharge of such functions and services and the furnishing and delivery of such water; said charges to be based upon the actual cost to such city of discharging such functions and performing such services, including the cost of pumping and delivery of such water, the maintenance of canals and reservoirs, salaries and an adequate reserve consonant with sound business practice for contingencies; such recommendation to be accepted and adopted by the governing body of such city in the absence of proof that the charges so recommended are inadequate to meet the cost to such city of discharging such functions and performing such services as above specified and defined. Said city shall never have the right to issue bonds, warrants or other obligations, payable wholly or in part from ad valorem taxes, restricted in their application and levy to lands situated within said district, but shall have and is hereby given the right and authority to make, establish and collect maintenance and operation charges for the service it shall render, to be based upon the quantity of water furnished, together with a fixed charge to be made as a minimum charge on all lands entitled to and capable of receiving and using same.

Water Board Fund

Sec. 8. The proceeds of such maintenance and water charges levied and collected by said city shall be deposited in the depository of such city in a special fund to be known as the "Water Board Fund" and are to be used solely for the purpose of defraying the expense of discharging and performing the functions and services so assumed by said city. All moneys in said fund shall be disbursed only in the manner now provided or that may hereafter be provided for the disbursement of city funds.

Dissolution of board

Sec. 9. When all of the territory within such district shall have been annexed by said city, such Water Board shall be immediately thereafter dissolved and all of the rights, powers and duties delegated or imposed upon it by the provisions of this Act or that may hereafter be delegated or imposed upon it by said city or subsequent Acts shall immediately vest in the governing body of said city to be exercised by it in any manner it may then deem expedient.

Dissolution and abolition of district

Sec. 10. When all of the debts, obligations and liabilities of said district, payable in whole or in part from ad valorem taxes, have been paid or refunded by said city, said district shall be, and the same is, upon such contingency, hereby abolished and dissolved.

Exception of cities and districts involved in litigation

Sec. 11. This Act shall not apply to any city or any Water Control and Improvement District which city and district are on the effective date of this Act involved in litigation with one another concerning the validity of the organization of the same or the property or assets of such city or district.

Partial invalidity

Sec. 12. If any clause, phrase, sentence, paragraph, section or provision of this Act, or the application thereof to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of this Act, or the application thereof to any person or thing. Acts 1951, 52nd Leg., p. 226, ch. 134.

Emergency. Effective May 3, 1951.

CHAPTER FOUR—FRESH WATER SUPPLY DISTRICTS

Art.

1. ESTABLISHMENT

7893a. Numerical redesignation; validation [New].

4. BONDS

Art.

7941b. Validation of bonds and bond elections and organization of districts [New].

7941c. Revenue bonds; combination tax and revenue bonds [New].

1. ESTABLISHMENT

Art. 7893a. Numerical redesignation; validation

All proceedings relating to numerical re-designation of all fresh water supply districts, are hereby validated. Acts 1951, 52nd Leg., p. 775, ch. 427, § 1.

Emergency. Effective June 15, 1951.

Title of Act:

An Act validating all proceedings relating to numerical re-designation of all fresh

water supply districts; and declaring an emergency. Acts 1951, 52nd Leg., p. 775, ch. 427.

4. BONDS

Art. 7941b. Validation of bonds and bond elections and organization of districts

Section 1. All bonds heretofore voted and issued or authorized by any fresh water supply district for any of the purposes set out in Chapter 4, Title 128 of the Revised Civil Statutes of Texas, 1925, as amended, and all elections at which bonds were voted for the purposes set out in Chapter 4, are hereby validated, ratified, approved, and confirmed notwithstanding the fact that the governing body of such district or districts may have failed to comply with all statutory requirements set out in said Chapter 4, and notwithstanding that any election held by any such district or districts or any hearing provided for in said Chapter 4 may not in all

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respects have been ordered and held in accordance with statutory provisions; and when the Attorney General has approved such bonds, and they have been registered by the Comptroller of Public Accounts of the State of Texas and sold and delivered, they shall be binding, legal, valid and enforceable obligations of such district or districts. Provided, however, that this Act shall apply only to such bonds as were authorized at an election or elections wherein at least a majority of the qualified property taxpaying voters voting thereat voted in favor of the issuance thereof.

Sec. 2. The organization of all fresh water supply districts, and all proceedings relating thereto, are hereby in all things validated.

Sec. 3. This Act shall not be construed as validating any district or bond proceedings or bonds issued or to be issued, the validity of which has been contested or attacked in any litigation pending at the time this Act becomes effective. Acts 1951, 52nd Leg., p. 132, ch. 81.

Emergency. Effective April 25, 1951.

Title of Act:

An Act validating, ratifying, approving and confirming certain proceedings and bonds heretofore voted and issued or authorized by any fresh water supply district; validating the organization of fresh

water supply districts; providing that this Act shall not validate any district or bond proceedings or bonds, the validity of which has been contested in any pending suit or litigation; and declaring an emergency. Acts 1951, 52nd Leg., p. 132, ch. 81.

Art. 7941c. Revenue bonds; combination tax and revenue bonds

Section 1. For the purpose of constructing, purchasing, either or both, and repairing, improving and extending improvements which such districts are authorized to acquire or make, any Fresh Water Supply District heretofore or hereafter created under the provisions of Chapter 4, Title 123, Revised Civil Statutes of Texas, 1925, as amended, in addition to the tax bonds which such Districts are authorized to issue may also issue bonds payable solely from the gross revenues derived from the operation of the District's water system, after deduction of the reasonable cost of maintaining and operating such system.

Such District shall also be authorized to issue bonds payable both from ad valorem taxes and the revenues of its water system for the purposes set out in this Section. In such case such District shall levy, assess and collect ad valorem taxes until the net revenues from the operation of such system, together with the money derived from taxes, shall have accumulated a surplus in the sinking fund or bond retirement fund in an amount at least equal to the principal of and interest on such bonds scheduled to accrue in the year next succeeding, in which event such tax levy may be reduced to such rate as will produce not less than twenty-five per cent (25%) of the principal and interest requirements for each of the next succeeding years until an actual experience of three (3) successive years shall demonstrate that the net revenues are wholly adequate to pay the principal of and the interest on such bonds as same mature, and at such time the tax may be wholly abated until further experience may demonstrate the necessity to again exercise the District's taxing power to avoid default in payment of said bonds and the interest thereon.

The Board of Supervisors of such District shall submit the proposition for the issuance of such bonds to a vote of the resident, qualified property taxpaying voters of the District who own property situated in such District and who have duly rendered same for taxation. The ballots in the case of revenue bonds shall have written or printed thereon "For the issuance of bonds and the pledge of net revenues for the payment thereof," and the contrary thereof; and the ballots for the issuance of com-

bination tax and revenue bonds shall have written or printed thereon "For the issuance of bonds, the pledge of net revenues and the levy of ad valorem taxes adequate to provide for the payment thereof," and the contrary thereof.

Such election shall be called and held in the manner relating to the voting of tax bonds as provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925, as amended.

In the event such revenue bonds or combination tax and revenue bonds shall be issued the Board of Supervisors shall at the time of the authorization thereof fix rates and charges for the use of the facilities or the services rendered thereby in an amount which together with any tax which may be levied will be sufficient to assure the prompt and punctual payment of the principal of and interest on such bonds as same mature.

Sec. 2. The provisions of this Act shall be cumulative of all other laws of the State relating to the issuance of bonds by Fresh Water Supply Districts. If any provision of this Act or the application thereof to any person or circumstance shall be held invalid, the remainder of the Act, and the application thereof to other persons or circumstances shall not be affected thereby. Acts 1951, 52nd Leg., p. 368, ch. 233.

Emergency. Effective May 17, 1951.

II. LEVEES

CHAPTER SIX—LEVEE IMPROVEMENT DISTRICTS

1. ESTABLISHMENT

Article 7972. Levee improvement districts

Annexation by city of over 425,000 population, see art. 974e—8.

III. DRAINAGE

CHAPTER SEVEN—DRAINAGE DISTRICTS

1. ESTABLISHMENT

Art.

8152a. Acquisition and sale of real estate. [New].

1. ESTABLISHMENT

Art. 8152a. Acquisition and sale of real estate

Section 1. The acquisition of real estate for drainage, levee construction, or other purposes provided in Chapter 7, Title 128, Revised Civil Statutes of Texas, 1925, whether by purchase, gift, condemnation, or otherwise, by the commissioners of any drainage district in this State or by the commissioners court for the benefit of said district, either or both, is hereby in all things validated. The subsequent sale, conveyance, or other disposition of any such real estate by said commissioners or commissioners court, either or both, is hereby in all things validated.

Sec. 2. If said commissioners shall hereafter determine that any such real estate so acquired is no longer necessary or appropriate in carrying out the purpose or purposes for which acquired, or that such purpose or purposes are no longer in existence, said commissioners may sell and

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

convey the same for the highest price obtainable, such sale and conveyance to be approved by the commissioners court. Acts 1951, 52nd Leg., p. 459, ch. 286.

Emergency. Effective May 19, 1951.

Section 3 of the Act of 1951 repealed conflicting laws and parts of laws.

Section 4 provided that 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, it shall not affect any other word, phrase, clause, sentence, paragraph, section, or part of this Act.

Title of Act:

An Act validating the acquisition of certain real estate by the commissioners of any drainage district in this State or by the commissioners court for the benefit of said district; validating the subsequent sale or other disposition of any of such real estate; authorizing the sale of such real estate under certain conditions; repealing all laws or parts of laws in conflict with this Act; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 459, ch. 286.

IV. CONSERVATION AND RECLAMATION

CHAPTER EIGHT—CREATION OF DISTRICTS

Art. 8197f. Condemnation of cemeteries by conservation and reclamation districts and similar districts

The following laws, though passed as general laws, are in fact special acts relating to particular conservation and reclamation districts or authorities:

Brookshire Municipal Water District, Acts 1951, 52nd Leg., p. 766, ch. 418.

Dallas County Flood Control District: Acts 1951, 52nd Leg., p. 79, ch. 50.

Fisher County Water Authority: Acts 1951, 52nd Leg., p. 181, ch. 115.

Lavaca County Flood Control District: Acts 1951, 52nd Leg., p. 409, ch. 257.

Lower Colorado River Authority: Acts 1951, 52nd Leg., p. 151, ch. 90.

Lower Rio Grande Authority: Acts 1951, 52nd Leg., p. 507, ch. 309.

North Texas Municipal Water District: Acts 1951, 52nd Leg., p. 96, ch. 62.

Sabine River Authority: Acts 1951, 52nd Leg., p. 857, ch. 482.

San Jacinto River Authority: Acts 1951, 52nd Leg., p. 617, ch. 366; Acts 1951, 52nd Leg., p. 618, ch. 367.

San Patricio Municipal Water District: Acts 1951, 52nd Leg., p. 632, ch. 373.

Valley Acres Water District: Acts 1951, 52nd Leg., p. 418, ch. 261.

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

3. GENERAL PROVISIONS

Art.

8262f—1. Validation of port districts and navigation districts; tax assessments and levies [New].

1. ORGANIZATION

Art.

8263f—1. Validity of port districts and navigation districts; tax assessments and levies [New].

3. GENERAL PROVISIONS

Art. 8198. Scope of district

Special Acts

Port of Beaumont Navigation District of Jefferson County, see Acts 1949, 51st Leg., p. 270, ch. 147.

Port of Beaumont Navigation District. Validating Act. See Acts 1950, 51st Leg., 1st C.S., p. 44, ch. 5.

Art. 8225. 5990. May acquire property; purchase from state

The Commissioners are empowered to acquire the necessary right-of-way and property of any kind for all necessary improvements contemplated by this title by gift, grant, purchase or condemnation proceedings. Any Navigation District heretofore or hereafter organized under this title or any General Law under which said subdivisions may be created shall have the right to purchase from the State of Texas any lands and flats belonging to said State, covered or partly covered by the waters of any of the bays or other arms of the sea, to be used by said District for the purposes authorized by law with the right to dredge out or to fill in and reclaim said lands or otherwise improve the same; and the Commissioner of the General Land Office is hereby authorized and directed to sell the same upon application, as hereinafter provided, at the price of One (\$1.00) Dollar per acre. The Commissioners of said District shall file an application with the Commissioner of the General Land Office, which application shall particularly describe by field notes the land sought to be purchased. At the time of filing such application, applicant shall pay or cause to be paid in cash the sum of One (\$1.00) Dollar per acre to the Commissioner of the General Land Office, for all the land included in such application. If the Commissioner of the General Land Office is satisfied that the applicant is a Navigation District created as hereinbefore provided, a patent shall then be issued to said Navigation District, conveying to said District the right, title and interest of the State in the lands described in said application, and the funds derived from such sales shall be paid over by the Commissioner of the General Land Office to the proper funds of the State. Such sales shall be subject to any oil, gas or mineral leases theretofore given by the State on said lands, and all mines and minerals and mineral rights, including oil and gas in and under said land, together with the right to enter thereon for the purpose of development, are hereby reserved to the State of Texas. Provided, nevertheless, that the portion of any such land which has been franchised or leased or is being used by any Navigation District or by the United States for the purpose of navigation, or industry or any other purpose incident to the operation of a port, shall not be entered upon or taken into possession by the State of Texas or by anyone claiming under the State of Texas for the purpose of exploring for oil, gas or other minerals except by directional drilling; provided, further, that no surface location may be nearer than 660 feet, and special permission from the Commissioner of the General Land Office will be necessary to make any surface location nearer than 2160 feet, measured at right angles from the nearest bulkhead line designated by a Navigation District or the United States as the bulkhead line (and if there be no designated bulkhead line, then from the nearest dredged bottom edge) of any channel, slip or turning basin which has been dredged, or which has been authorized by the United States as a Federal project for future construction, whichever is nearer. Leases heretofore executed by the State of Texas on such lands are hereby validated and may be developed in accordance with the provisions of this Act; provided however that no leases now involved in litigation shall be validated hereby. As amended Acts 1951, 52nd Leg., p. 175, ch. 111, § 1.

Emergency. Effective May 2, 1951.

2. SPECIAL POWERS

A. PORT FACILITIES

Art. 8247a. Additional powers to navigation districts for improvement of port facilities

Board of trustees of grain elevator financed by pledge of revenues

Sec. 7a. Any navigation district which heretofore or hereafter shall have adopted plans for the construction of a grain elevator to be paid for by the issuance and sale of obligations payable from and secured by a pledge of revenues to be derived from the operation of said grain elevator and further secured by a trust indenture, or by a deed of trust on the physical properties of such improvement may, during the time any such improvement is encumbered by the pledge of such revenues or by the pledge of such revenues and the lien upon its physical properties, in the resolution authorizing the bonds or the indenture, vest its management and control in a Board of Trustees, to be named in such resolution or indenture, consisting of not less than five (5) nor more than nine (9) members. The compensation of the members of such Board of Trustees shall be fixed by such resolution or indenture, but shall never exceed one (1%) per cent of the gross receipts of such improvement in any one year. The terms of office of the members of such Board of Trustees, their powers and duties, including the power to fix fees and charges for the use of such improvements, and manner of exercising same, the manner of the selection of their successors, and all matters pertaining to their duties and the organization of such Board of Trustees shall be specified in such resolution or indenture. Any such Board of Trustees may adopt by-laws regulating the procedure of the Board and fixing the duties of its officers, but the by-laws shall not contain any provision in conflict with the covenants and provisions contained in the resolution authorizing the bonds or the indenture. In all matters wherein the resolution or indenture are silent as to the powers, duties, obligations and procedure of the Board, the laws and rules governing the governing body of such District shall control the Board of Trustees insofar as applicable. The Board may be created by the resolution or indenture, and in that event shall have all or any of the powers and authority which could be exercised by the governing body of the District insofar as the management and operation of any such improvement is concerned. By the terms of any such resolution or indenture the governing board of any such District may make provision for later supplementing such resolution or indenture so as to vest the management and control of such grain elevator in a Board of Trustees having the powers, rights and duties herein conferred or imposed. Added Acts 1951, 52nd Leg., p. 853, ch. 478, § 1.

Emergency. Effective June 21, 1951.

Section 2 of the amendatory act of 1951, provided that the provisions of any resolution or indenture adopted or executed by any such District prior to the effective date of this Act creating a Board of Trustees or

for later supplementing such resolution or indenture so as to create such a Board of Trustees is hereby validated, confirmed and ratified.

"Obligation" and "obligations" defined

Sec. 18a. The words "obligation" and "obligations" as used in this law shall mean and shall be construed to include negotiable bonds. Added Acts 1951, 52nd Leg., p. 340, ch. 211, § 1.

Approval and registration of bonds

Sec. 18b. Bonds issued hereunder shall be submitted to the Attorney General for his approval in the same manner and with like effect as is provided for the approval of tax bonds issued by counties of the State. In such case the bonds shall be registered by the Comptroller of Public Accounts as required for county tax bonds. Added Acts 1951, 52nd Leg., p. 340, ch. 211, § 1.

Legal investments

Sec. 18c. Bonds authorized and issued under this law shall be and are hereby declared to be legal and authorized investments for Life Insurance Companies authorized to do business in Texas. Added Acts 1951, 52nd Leg., p. 340, ch. 211, § 1.

Emergency. Effective May 17, 1951.

3. GENERAL PROVISIONS

Art. 8263a. Conversion of navigation districts into other districts under Constitution

Annexation of whole of adjacent county

Sec. 3a. If the territory included within the boundaries of one of the Navigation Districts specified in Section 3 of this Act shall consist of the whole of a single county and if the territory to be annexed to such Navigation District shall consist of the whole of the area of an adjacent county, then such adjacent county may be annexed and become a part of such adjacent Navigation District in the same manner as is provided in Section 3 of this Act, except the Commissioners Court of such county to be annexed shall conduct the hearing, order the election and canvass the returns of the election, and perform the other duties provided in Section 3 for the Navigation and Canal Commission of the annexing district. The Commissioners Court of such county to be annexed shall conduct the hearing at some place within the county to be annexed and shall be authorized to order the election on either the one (1) issue, FOR or AGAINST the Annexation to the Navigation District, or the two (2) issues, FOR or AGAINST the Annexation to the Navigation District and FOR or AGAINST the Assumption of the Prorata Part of the Bonded Debt of the Navigation District, either as shall be requested in the petition to the Commissioners Court. If such election shall carry by a majority of the votes of the property taxpaying voters voting at such election, the Commissioners Court of such county proposed to be annexed shall certify the result of said election on the one (1) or two (2) issues voted upon to the Navigation and Canal Commission of the annexing District, and the Navigation and Canal Commission of the annexing District shall conduct a public hearing to determine whether or not it will be a benefit to the annexing District to annex such adjacent county, which said hearing shall be conducted at some place within the annexing District after giving five (5) days notice in some newspaper published within the annexing District, and if at said hearing it shall appear that the annexation of such adjacent county will be a benefit to the annexing District, the Navigation and Canal Commission shall enter an order in the minutes of the Navigation and Canal Commission annexing such adjacent county, and from and after entry of such order such county shall become a part of the annexing District with all rights and privileges of territory originally situated therein and with the right of representation on the Navigation and Canal Commission as hereinafter set out, but such annexa-

tion shall in no way affect the bonded debt or any other valid obligation outstanding of such annexing District, except, if applicable, for the prorata assumption of the bonded debt by the annexed county; and, unless the issue FOR the Assumption of the Prorata part of the Bonded Debt was submitted to, and voted favorably by, the voters at the annexation election in the county annexed, the persons and property within such county shall never be bound to the payment of any debt of the annexing District outstanding at the time of annexation; and from and after the time of the entry of said order annexing said adjacent county in the minutes of the Navigation and Canal Commission, the Navigation Board shall be constituted as hereinafter provided and the appointment of the Navigation and Canal Commissioners of the Navigation District shall be made in the following manner and governed by the following method of appointment, no matter what method of appointment or election of Navigation and Canal Commissioners was in effect and practiced under the laws applicable to the annexing district prior to the annexation of the adjoining county.

After the time of the entry of said order annexing the adjacent county, the Commissioners Court of the annexed county shall appoint two (2) Navigation and Canal Commissioners, both of whom shall be resident freehold property taxpayers and legal voters of the Navigation District and whose services and compensation shall be the same as the then incumbent Navigation and Canal Commissioners of the Navigation District. The two (2) Navigation and Canal Commissioners so appointed shall be additional members of the Navigation and Canal Commission, the membership of which shall be so increased by two (2), and shall hold office for a term equal to and expiring with the term of the incumbent Navigation and Canal Commissioners, or, if the Navigation and Canal Commissioners be serving staggered terms, then expiring with the term of the Navigation and Canal Commissioner whose term first expires, at which time the terms of the other Navigation and Canal Commissioners serving the staggered terms shall also automatically be terminated no matter what amount of the term of office of such commissioners then remains unexpired. After such expiration and termination of the term of office of the said incumbent Navigation and Canal Commissioners and of the two (2) additional Commissioners, the Navigation District shall be managed, governed and controlled by five (5) Commissioners who shall be appointed as follows: two (2) shall be selected for a term of two (2) and four (4) years, respectively, by a majority of the Commissioners Court of the county of the annexing District. At the expiration of the term of office of said Navigation and Canal Commissioners, the said Commissioners Court shall select their successors to serve for four (4) years. Two (2) shall be selected for a term of two (2) and four (4) years, respectively, by a majority of the Commissioners Court of the annexed county. At the expiration of the term of office of said Navigation and Canal Commissioners, the said Commissioners Court shall select their successors to serve for four (4) years. The fifth, who shall be chairman and who shall serve for a term of four (4) years, shall be selected by a vote of the county judge and Commissioners Court of the county of the annexing District, and the county judge and Commissioners Court of the annexed county in joint session called by the county judge of the county of the annexing District. Said persons so sitting shall constitute a board to be known and designated as the Navigation Board, and shall be the Board referred to whenever, in the laws of this State applicable to the Navigation District, the term 'Navigation Board' is used. Each individual member of the Navigation Board shall be entitled to a vote. A majority in number of the individuals composing said Board shall constitute a quo-

rum, and the action of a majority of the quorum shall control. Each Navigation and Canal Commissioner shall be a resident freehold property taxpayer and legal voter in said Navigation District, and shall give the bond, take the oath, and have the powers and duties as prescribed by the laws applicable to the annexing District at the time of annexation. Each Navigation and Canal Commissioner shall receive such compensation as the Navigation Board may fix. A majority of said Navigation and Canal Commissioners shall have the power to execute all contracts and to take all action relating to the governing of the District. Said Commissioners shall serve their full term of appointment and until their successors have qualified unless sooner removed by the authority by which they were appointed for malfeasance, or nonfeasance in office. If any vacancy occurs through the death, resignation, or otherwise, of any Navigation and Canal Commissioner, the same shall be filled as in the first instance by appointment for the unexpired term.

The changes in number, method of appointment, and term of office of the Navigation and Canal Commissioners and the changes in the membership and organization of the Navigation Board of such District and other changes as provided in this Section shall be the only changes resulting to the organization and operation of the annexing District by the annexation of the adjacent county under the provisions hereof. Except as herein specified, each Navigation District annexing the whole of an adjacent county under the provisions of this Section of this Act, shall continue after annexation to be governed by, and subject to, all of the laws applicable to the annexing District at the time of annexation. Added Acts 1951, 52nd Leg., p. 310, ch. 188, § 1.

Emergency. Effective May 16, 1951.

Sections 2 and 3 of the amendatory Act of 1951 read as follows:

"Sec. 2. The provisions of this Act shall be cumulative of all other Acts heretofore enacted into law with reference to the organization and operation of Navigation Districts. In case of any conflict, the provisions of this Act shall control.

"Sec. 3. If any section, sentence, clause or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act, and each sentence, clause or portion thereof, irrespective of the fact that one or more sentences, sections, clauses or parts thereof be declared unconstitutional."

Art. 8263f—1. Validation of port districts and navigation districts; tax assessments and levies

Section 1. The creation, organization, and existence of all port districts and navigation districts, in the State of Texas, engaged in the operation of public ports and port facilities, heretofore created or organized in any manner, hereby are in all things ratified, validated, and confirmed, and all tax assessments and tax levies made by or on behalf of such districts are in all things ratified, validated, and confirmed.

Sec. 2. Such districts are hereby declared to be valid and existing governmental agencies and bodies politic and corporate, with the powers of government and with the authority to exercise the rights, privileges and functions specified in the Acts or proceedings under which they are respectively organized.

Sec. 3. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which has been contested or attacked in any suit or litigation pending at the time that this Act becomes effective. Acts 1951, 52nd Leg., p. 16, ch. 11.

Emergency. Effective Feb. 28, 1951.

CHAPTER TEN—PILOTS

Art. 8274. 6309, 3800 Pilotage

The rate of pilotage, which may be fixed under Articles 8267 and 8269, on any class of vessels shall not, in any port of this State with the exception of the Port of Galveston, exceed Five (\$5.00) Dollars for each foot of water which the vessel at the time of piloting draws; and whenever a vessel, except of the classes below excepted, shall decline the services of a pilot, offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined for the payment of half pilotage; and any vessel which, after being brought in by a pilot, shall go out without employing one, shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall on so going out be liable for the payment of half pilotage to the pilot who had first offered his services before she came in, but if she has come in without the aid of a pilot, or the offer of one outside, she shall not, in case of going out without a pilot, be liable to half pilotage. At any port where vessels shall receive or discharge their cargoes at an anchorage outside of the bar, such vessel shall be liable to pilotage at the above rate to such anchorage, but shall not be liable for or compelled to pay pilotage from such anchorage to the open sea; and if any vessel bound from open sea to such anchorage, while under way, shall decline the services of a pilot, and shall afterward receive or discharge any portion of her cargo at such anchorage on the lighters or otherwise, she shall be liable for the payment of half pilotage, at the above rate to such anchorage to the first pilot whose services shall have been tendered to and declined by her, but not liable for any pilotage from such anchorage to the open sea; and when a pilot takes charge of a vessel twenty miles outside of the bar, and brings her to it, he shall be entitled to one-fourth pilotage for such off-shore service, in addition to what he is entitled to recover for bringing her in, but if such off-shore service be declined, no portion of said compensation shall be recovered. As amended Acts 1951, 52nd Leg., p. 252, ch. 148, § 1.

Emergency. Effective May 10, 1951.

TITLE 130—WORKMEN'S COMPENSATION LAW

PART 4

Art.
8309d. University of Texas employees
[New].

PART I

Art. 8306. Damages and compensation for personal injuries**Increase of weekly compensation**

Sec. 15a. In any case where compensation is payable weekly at a definite sum and for a definite period, and it appears to the board that the amount of compensation being paid is inadequate to meet the necessities of the employee or beneficiary, the board shall have the power to increase the amount of compensation by correspondingly decreasing the number of weeks for which the same is to be paid allowing discount for present payment at the rate of four per cent (4%), compounded annually; provided that in no case shall the amount to which it is increased exceed the amount of the average weekly wages upon which the compensation is based; provided it is not intended hereby to prevent lump sum settlement when approved by the board. As amended Acts 1951, 52nd Leg., p. 127, ch. 78, § 1.

Emergency. Effective April 25, 1951.

Art. 8306a. Discount for present payment

In all cases when the payments of weekly compensation due an injured employee or beneficiary coming within the provisions of the Workmen's Compensation Act are accelerated by increasing the amount of compensation by correspondingly decreasing the number of weeks for which the same is to be paid, and when the liability of the insurance company is redeemed by the payment of a lump sum, by agreement of parties interested, or as a result of an order made by the Industrial Accident Board or a judgment rendered by a court of competent jurisdiction, and when advanced payments of compensation are made, and in all cases when compensation is paid before becoming due, discount shall be allowed for present payment at four per cent (4%), compounded annually.

Provided, however, where suits are legally brought by any claimant or beneficiary under any of the provisions of this Act and recovery is had for past due weekly installments, such claimant or beneficiary shall be entitled to recover interest on such past due installments at the rate of four per cent (4%), compounded annually. Any judgment rendered pursuant to any of the provisions of this Act, shall bear interest from the date it is rendered until paid at the rate of four per cent (4%), compounded annually.

Provided, however, future installments of compensation payable to alien beneficiaries, not residents of the United States, may be commuted and paid according to the terms and provisions of Section 17, Article 8306 of the Revised Civil Statutes of 1925; and provided further when either party shall appeal from the award of the Industrial Accident Board to the District Court, the District Court shall try the matter appealed from only, and shall not in said trial adjudicate in any way any right to exemplary damages, as is granted in Section 26 of Article 16 of the State Constitution. As amended Acts 1951, 52nd Leg., p. 127, ch. 78, § 2.

Emergency. Effective April 25, 1951.

PART 4

Art. 8309d. University of Texas employees

Law passed pursuant to Constitution

Section 1. By virtue of the provisions of Section 59 of Article III of the Constitution of the State of Texas granting the Legislature power to pass such laws as may be necessary to provide for Workmen's Compensation Insurance for State employees, as in its judgment is necessary or required, and to provide for the payment of all costs, charges, and premiums on such insurance, provision is made as hereinafter set forth.

Definitions

Sec. 2. The following words and phrases as used in this Act shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

1. "Institution" whenever used in this Act shall be held to mean each of the institutions and agencies under the direction or government of the Board of Regents of The University of Texas including the following:

Main University, Austin
 Medical Branch, Galveston
 Dental Branch, Houston
 M. D. Anderson Hospital for Cancer Research, Houston
 Southwestern Medical School, Dallas
 Texas Western College, El Paso
 Postgraduate School of Medicine, Houston

Any other agencies now or hereafter under the direction and control of said Board of Regents.

2. "Workman" shall mean every person in the service of The University of Texas under any appointment or expressed contract of hire, oral or written, whose name appears upon the payroll of The University of Texas except,

- (a) Administrative staff including officers of administration,
- (b) Teaching staff who are not required by their teaching or research duties to handle or work in close proximity to dangerous chemicals, materials, machinery or equipment,
- (c) Research staff who are not required to handle or work in close proximity to dangerous chemicals, materials, machinery or equipment,
- (d) Clerical and office employees not required by their duties to regularly travel or work in a dangerous area,
- (e) Supervisory staff whose duties are predominately administrative and clerical and who do not participate in manual labor, or work in a dangerous area,
- (f) Persons paid on a piecework basis, or any basis other than by the hour, day, week, month, or year.

Provided further, that no person shall be classified as a "workman" nor be eligible to any compensation benefits under the terms and provisions of this Act until he shall have submitted himself first to a physical examination by a regularly licensed physician or surgeon designated by The University of Texas to make such examination and thereafter been certified by The University of Texas to be placed on the payroll of The University of Texas.

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 7 of this Act.

6. "Average weekly wages" shall be as defined in Section 1, Article 8309, Revised Civil Statutes of Texas of 1925.

7. Any reference to a workman herein who has been injured shall, when the workman is dead, also include the legal beneficiaries, as that term is herein used, of such workmen to whom compensation may be payable. 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.

**Group insurance of employees other than workmen; compensation
for workmen; acceptance of provisions**

Sec. 3. After the effective date of this Act the Board of Regents of The University of Texas is hereby authorized to require, as a condition of employment, all employees except workmen as defined above, to acquire protection under a group life and accident insurance plan approved by it.

After the effective date, any workman, as defined in this Act, who sustains an injury in the course of his employment shall be paid compensation as hereinafter provided.

The institution is hereby authorized to be self-insuring and is charged with the administration of this Act. The institution shall notify the Board of the effective date of such insurance, stating in such notice the nature of the work performed by the workmen of the institution, the approximate number of workmen, and the estimated amount of payroll.

The institution shall give notice to all workmen that, effective at the time stated in such notice, the institution has provided for payment of insurance.

Workmen of the institution shall be conclusively deemed to have accepted the provisions hereof in lieu of common law or statutory causes of action, if any, for injuries resulting in the course of their employment.

Compensation for injury in course of employment

Sec. 4. If a workman of the institution sustains an injury in the course of his employment, he shall be paid compensation by the institution as herein provided except that compensation for any person employed on less than a full work-day basis shall not exceed sixty per cent (60%) of his average weekly earning.

Defenses

Sec. 5. In an action to recover damages for personal injuries sustained by a workman in the course of his employment, or for death resulting from personal injuries so sustained, the institution may defend in such action on the ground that the injury was caused by the willful intention of the workman to bring about the injury, or was so caused while the workman was in a state of intoxication.

Exclusiveness of remedy; exemptions and non-assignability

Sec. 6. Workmen of the institution and parents of minor workmen shall have no right of action against the agents, servants, or employees of the institution for damages for personal injuries, nor shall representatives and beneficiaries of deceased workmen have a right of action against the agents, servants or employees of the institution for injuries resulting in death, but such workmen and their representatives and beneficiaries shall look for compensation solely to the institution as is provided in this Act. 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.

Applicability of existing laws

Sec. 7. Unless otherwise provided herein, Section 6, as amended by Acts, 1927, Fortieth Legislature, page 84, Chapter 60, Section 1; 7; 7b; 7c; 8, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature; 8a; 8b; 9, as amended by Acts, 1931, Forty-second Legislature, page 303, Chapter 178, 10, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature; 11, as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature; 11a, Acts, 1927, Fortieth Legislature, page 41, Chapter 28, Section 1; 12; as amended by House Bill No. 10, Acts, 1947, Fiftieth Legislature; 12a; 12b; 12c; 12d, as amended by Acts, 1931, Forty-second Legislature, page 260, Chapter 155, Section 1; 12e; 12f; 12i, as amended by Acts, 1931, Forty-second Legislature, page 259, Chapter 154, Section 1; 13; 15; 15a; 16; 17; 19, as amended by Acts, 1927, Fortieth Legislature, page 383, Chapter 259, Section 1, as amended by Acts, 1931, Forty-second Legislature, page 133, Chapter 90, Section 1; 20; 21; 22; 23; 24; 25; 26; 27, as added by Senate Bill No. 40, Acts, 1947, Fiftieth Legislature; Acts, 1931, Forty-second Legislature, page 415, Chapter 248, Section 1; all being Sections of Article 8306 of the Revised Civil Statutes of Texas, 1925, as amended; Section 4a, as amended by Senate Bill No. 40, Acts, 1947, Fiftieth Legislature; 6a; 11; and 12 of Article 8307 of the Revised Civil Statutes of Texas, 1925; and 13 and 14 of Article 8307, as added by Senate Bill No. 40, Acts, 1927, Fiftieth Legislature; and Sections 4 and 5 of Article 8309 of the Revised Civil Statutes of Texas, 1925, and Senate Bill No. 64, Acts, Regular Session, Forty-fifth 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 institution."

Attorney's fees

Sec. 8. For representing the interest of any claimant in any manner carried from the Board into the courts, it shall be lawful for the attorney representing such interest to contract with any beneficiary under this Act 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 causes may be heard and determined.

Weekly payment to person entitled

Sec. 9. It is the purpose of this Act that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein.

Medical examinations; insanitary or injurious practices; process and procedure

Sec. 10. The Board may require any workman claiming to have sustained injury 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 workman or the institution 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 workman to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. If any workman shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment or other remedial treatment recognized by the State, as is reasonably essential to promote his recovery, the Board may in its discretion order or direct the institution to reduce or suspend the compensation of any such injured workman. No compensation shall be reduced or suspended under the terms of this Section without reasonable notice to the workman and an opportunity to be heard.

The institution shall have the privilege of having any injured workman 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 workman and convenient and accessible to him. The institution shall pay for such examination and the reasonable expense incident to the injured workman in submitting thereto. The injured workman shall have the privilege to have a physician of his own selection present to participate in such examination. Provided, when such examination is directed by the Board or the institution, the institution shall pay the fee of the physician selected by the workman, such fee to be fixed by the Board.

Process and procedure shall be as summary as may be under this Act. The Board or any member thereof shall have power to subpoena witnesses, administer oaths, inquire into matters of fact, examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. All rulings and decisions of the Board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this Act.

**Board to determine questions; suits to set aside or enforce rulings;
failure to make payments**

Sec. 11. All questions arising under this Act, if not settled by agreement of the parties interested therein and within the provisions of this Act, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said Board shall within twenty (20) days after the rendition of said final ruling and decision by the said Board, file with said Board notice that he will not abide by said final ruling and decision. And he shall within twenty (20) days after giving such notice bring suit in the county where the injury occurred to set aside said final ruling and decision and said Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. Whenever such suit is brought, the rights and liability of the parties thereto shall be determined by the provisions of this Act and the suit of the injured workman or person suing on account of the death of such workman shall be against the institution. If the final order of the Board is against the institution, then the institution shall bring suit to set aside said final ruling and decision of the Board, if it so desires, and the court shall in either event determine the issues in such cause instead of the Board upon trial de novo and the burden of proof shall be upon the party claiming compensation. The Board shall furnish any interested party in said claim pending in court upon request free of charge, with a certified copy of the notice of the institution becoming an insurer filed with the Board and the same when prop-

erly certified to shall be admissible in evidence in any court in this State upon trial of such claim therein pending and shall be prima-facie proof of all facts stated in such notice in the trial of said cause unless same is denied under oath by the opposing party therein. In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this Act. If any party to any such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto, and, if the same is against the institution, it shall at once comply with such final ruling and decision.

In all cases where the Board shall make a final order, ruling, or decision, as provided in the preceding section and against the institution, and the institution shall willfully fail and refuse to obey or comply with the same and shall fail or refuse to bring suit to set the same aside as in said Section is provided, then in that event the claimant in addition to the rights and remedies given him and the Board in said Section may, after demanding compliance, bring suit in a Court of competent jurisdiction, upon said order, ruling, or decision. If he secures a judgment sustaining such order, ruling, or decision in whole or in part, he shall also be entitled to recover the further sum of twelve per cent (12%) 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 institution requiring the payment to an injured workman or his beneficiaries of any weekly or monthly payments, under the terms of this Act, and the institution should thereafter fail or refuse, without justifiable cause, to continue to make said payments promptly as they mature, then the said injured workman or his beneficiaries, in case of his death, shall have the right to mature the entire claim and to institute suit thereon to collect the full amount thereof, together with twelve per cent (12%) penalties and attorney's fees as herein provided for. Suit may be brought under provisions of this Section, either in the county where the accident occurred, or in any county where the claimants reside, or where one or more of such claimants may have his place of residence at the time of the institution of the suit.

Records and reports

Sec. 12. The institution shall hereafter keep a record of all injuries fatal or otherwise, sustained by its workmen in the course of their employment. Within eight (8) days after the occurrence of an accident resulting in an injury to a workman, causing his absence from work for more than one day, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured workman, or if such incapacity extends beyond a period of sixty (60) days, the institution 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 workman and the character of work in which he was engaged at the time of the injury, and shall state the place, date and hour of receiving such injury and the nature and cause of the injury, and such other information as the Board may require. The institution shall be responsible for the submission of the reports in the time specified in this Section.

Rules and regulations; designation of physicians and surgeons; reports of examinations

Sec. 13. The institution is authorized to promulgate and publish such rules and regulations and to prescribe and furnish such forms as may be necessary to the effective administration of this Act, and the institution

shall have authority to make and enforce such rules for the prevention of accidents and injuries as may be deemed necessary. It shall be the duty of the institution to designate a convenient number of regularly licensed practicing physicians and surgeons for the purpose of making physical examinations of all persons employed or to be employed in the service of the institution to determine who may be physically fit to be classified as "workman" as that term is defined in subsection 2 of Section 2 of this Act, and said physicians and surgeons so designated and so conducting such examinations shall make and file with the institution a complete transcript of said examination in writing and sworn to upon a form to be furnished by the institution. It shall be the duty of the institution to preserve as a part of the permanent records of the institution all reports of such examinations so filed with it.

Physical examination before certification

Sec. 14. No person shall be certified as a workman of the institution under the terms and provisions of this Act until he has submitted himself for a physical examination as provided in Section 13 herein and has been certified by the examining physician or surgeon to be physically fit to perform the duties and services to which he is to be assigned; provided that absence of a physical examination shall not be a bar to recovery.

Waiver of rights

Sec. 15. An agreement to waive his rights under this Act made in writing by any workman prior to his employment shall be valid.

Evidence; certified copies

Sec. 16. Any order, award, or proceeding of said Board when duly attested by any member of the Board or its secretary shall be admissible as evidence of the Act of said Board in any Court of this State.

Upon the written request and payment of the fees therefor, which fees shall be the same as those charged for similar services in the Secretary of State's office, the Board shall furnish to any person entitled thereto a certified copy of any order, award, decision, or paper on file in the office of said Board and the fees so received for such copies shall be paid into the State Treasury and credited to the General Revenue Fund; provided that the institution 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.

Venue of suits; transfer to proper county

Sec. 17. Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Board shall, in the manner and within the time provided by Section 11 of this Act, file notice with said Board, and bring suit in the county where the injury occurred to set aside said final ruling and decision; however, in the event such suit is brought in any county other than the county where the injury occurred, the court in which same is filed shall, upon ascertaining that it does not have jurisdiction to render judgment upon the merit, transfer the case to the proper court in the county where the injury occurred. Provided, however, that notice of said transfer shall be given to the parties and said suit when filed in the court to which the transfer is made, shall be considered for all purposes, the same as if originally filed in said court.

Time for hearing

Sec. 18. When an injured workman has sustained an injury in the course of employment and filed claim for compensation and given notice as required by law, the Board shall hear his claim for compensation within

a reasonable time. Provided, however, when such injured workman is being paid compensation as provided in this Act, and the institution is furnishing either hospitalization or medical treatment to such workman, the Board may, within its discretion, delay or postpone the hearing of his claim, and no appeal shall be taken from any such order made by the board.

Setting aside funds; account; reports

Sec. 19. The institutions covered by this Act are hereby authorized to set aside from available appropriations other than itemized salary appropriations an amount not to exceed two per cent (2%) of the annual workman payroll of the institution for the payment of all costs, administrative expense, charges, benefits, and awards authorized by this Act.

The amounts so set aside shall be set up in a separate account in the records of the institution, which account shall show the disbursements authorized by this act; provided the amounts so set aside in this account shall not exceed two per cent (2%) of the annual workman payroll at any one time. A statement of the amounts set aside for and disbursements from said account shall be included in reports made to the Governor and the Legislature as required by the Statutes.

Legal representative

Sec. 20. The Attorney General of the State of Texas shall be the legal representative of the institution and is hereby given power and authority to bring and defend all suits and hearings necessary to carry out the purposes of this Act.

Duties of clerk of court and attorneys

Sec. 21. That in every case appealed from the Board to any District or County Court, the Clerk of such Court shall, within twenty (20) days after the filing thereof, mail to the Board a notice giving the style, number, and date of filing such suit, and shall, within twenty (20) days after judgment is rendered in such suit, mail to the Board a certified copy of such judgment. The duties devolving upon District and County Clerks under this Act shall constitute a part of their ex officio duties and for such services they shall not be entitled to any fee.

In every such case the attorney preparing the judgment shall file the original and a copy of same with the Clerk of the Court. However, the failure of such attorney to comply with this provision shall not excuse the failure of the Clerk of a District or County Court to mail a certified copy of such judgment to the Board as above provided.

Any Clerk of a District or County Court who fails to comply with the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Two Hundred and Fifty Dollars (\$250). (Acts, 1931, Forty-second Legislature, page 308, Chapter 182¹.)

¹ Vernon's Ann.P.C. art. 427c.

Partial unconstitutionality

Sec. 22. If any section, sentence, clause or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional. Acts 1951, 52nd Leg., p. 522, ch. 310.

Effective 90 days after June 8, 1951, date of adjournment.

Section 23 of the Act of 1951 repealed conflicting laws and parts of laws to the extent of the conflict.

TEXAS RULES OF CIVIL PROCEDURE

PART II. RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS

SEC. 8 PRE-TRIAL PROCEDURE

Rule

166-A. Summary judgment [New].

SECTION 5. CITATION

Rule 101. Requisites

The citation shall be styled "The State of Texas" and shall be directed to the defendant and shall command him to appear by filing a written answer to the plaintiff's petition at or before 10 o'clock a. m. of the Monday next after the expiration of 20 days after the date of service thereof, stating the place of holding the court. It shall state the date of the filing of the petition, its file number and the style of the case, and the date of issuance of the citation, be signed and sealed by the clerk, and shall be accompanied by a copy of plaintiff's petition. The citation shall further direct that if it is not served within 90 days after date of its issuance, it shall be returned unserved. The party filing any pleading upon which citation is to be had shall furnish the clerk with a sufficient number of copies thereof for use in serving the parties to be served, and when the copies are so furnished the clerk shall make no charge therefor. Amended by order of September 20, 1941, effective December 31, 1941; and by order of October 10, 1951, effective March 1, 1952.

Source: R.C.S. Art. 2022.

Change: The citation will be directed to the defendant rather than to the officer and may be served in any county in the State of Texas where the defendant may be found (see Rule 102). The return day will be fixed by the date of service. All cita-

tions will be accompanied by a copy of the petition, which need not be certified.

Change by amendment effective December 31, 1941: By adding the last sentence.

Change by amendment effective March 1, 1952. The citation commands the defendant to appear by filing a written answer.

Rule 117a. Citation in Suits for Delinquent Ad Valorem Taxes

3. Service by Publication: Nonresident, Absent from State, Transient, Name Unknown, Residence Unknown, Owner Unknown, Heirs Unknown, Corporate Officers, Trustees, Receivers or Stockholders Unknown, Any Other Unknown Persons Owning or Claiming or Having an Interest:

Where any defendant in a tax suit is a nonresident of the State, or is absent from the State, or is a transient person, or the name or the residence of any owner of any interest in any property upon which a tax lien is sought to be foreclosed, is unknown to the attorney requesting

the issuance of process or filing the suit for the taxing unit, and such attorney shall make affidavit that such defendant is a nonresident of the State, or is absent from the State, or is a transient person, or that the name or residence of such owner is unknown and cannot be ascertained after diligent inquiry, each such person in every such class above mentioned, together with any and all other persons, including adverse claimants, owning or claiming or having any legal or equitable interest in or lien upon such property, may be cited by publication. All unknown owners of any interest in any property upon which any taxing unit seeks to foreclose a lien for taxes, including stockholders of corporations—defunct or otherwise—their successors, heirs, and assigns, may be joined in such suit under the designation of “unknown owners” and citation be had upon them as such; provided, however, that record owners of such property or of any apparent interest therein, including, without limitation, record lien holders, shall not be included in the designation of “unknown owners”; and provided further that where any record owner has rendered the property involved within five years before the tax suit is filed, citation on such record owner may not be had by publication or posting unless citation for personal service has been issued as to such record owner, with a notation thereon setting forth the same address as is contained on the rendition sheet made within such five years, and the sheriff or other person to whom citation has been delivered makes his return thereon that he is unable to locate the defendant. Where any attorney filing a tax suit for a taxing unit, or requesting the issuance of process in such suit, shall make affidavit that a corporation is the record owner of any interest in any property upon which a tax lien is sought to be foreclosed, and that he does not know, and after diligent inquiry has been unable to ascertain, the location of the place of business, if any, of such corporation, or the name or place of residence of any officer of such corporation upon whom personal service may be had, such corporation may be cited by publication as herein provided. All defendants of the classes enumerated above may be joined in the same citation by publication. Amended by order of July 17, 1950, effective December 1, 1950.

SECTION 8. PRE-TRIAL PROCEDURE

Rule 166-A. Summary Judgment

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the adverse party has appeared or answered, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to amount of damages.

(b) For Defending Party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) Motion and Proceedings Thereon. The motion shall be served at least ten days before the time specified for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

(d) Case Not Fully Adjudicated on Motion. If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) Form of Affidavits; Further Testimony. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions or by further affidavits.

(f) When Affidavits Are Unavailable. Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt. Promulgated by order of October 12, 1949, effective March 1, 1950. As amended by order of October 10, 1951, effective March 1, 1952.

New rule, effective March 1, 1950.

Source: Federal Rule 56, as originally promulgated, except that the following wording in subdivision (a) has been eliminated: "pleading in answer thereto has been served"; and in its place the follow-

ing language has been substituted: "adverse party has appeared or answered." Change by amendment effective March 1, 1952. The last sentence is added to paragraph (a).

SECTION 11. TRIAL OF CAUSES

H. JUDGMENTS

Rule 308-A. In Child Support Cases

In cases where the court has ordered periodical payments for the support of a child or children, as provided in the statutes relating to divorce, and it is claimed that such order has been disobeyed, the person claiming that such disobedience has occurred shall make same known to the judge of the court ordering such payments. Such judge may thereupon appoint a member of the bar of his court to advise with and represent said claimant. It shall be the duty of said attorney, if he shall in good faith believe that said order has been contemptuously disobeyed, to file with the clerk of said court a written statement, verified by the affidavit

of said claimant, describing such claimed disobedience. Upon the filing of such statement, or upon his own motion, the court may issue a show cause order to the person alleged to have disobeyed such support order, commanding him to appear and show cause why he should not be held in contempt of court. Notice of such order shall be served on the respondent in such proceedings in the manner provided in Rule 21a, not less than ten days prior to the hearing on such order to show cause. The hearing on such order may be held either in term time or in vacation. No further written pleadings shall be required. The court, the parties and the attorneys may call and question witnesses to ascertain whether such support order has been disobeyed. Upon a finding of such disobedience, the court may enforce its judgment by orders as in other cases of civil contempt.

Except with the consent of the court, no fee shall be charged by or paid to the attorney representing the claimant for his services. If the court shall be of the opinion that an attorney's fee shall be paid, the same shall be assessed against the party in default and collected as costs. Promulgated by order of October 12, 1949, effective March 1, 1950; amended by order of October 10, 1951, effective March 1, 1952.

New rule, effective March 1, 1950.

Change by amendment effective March 1, 1952: Trial judge is authorized to appoint attorney to represent claimant and to fix fee of such attorney.

PART III. RULES OF PROCEDURE FOR THE COURTS OF CIVIL APPEALS

SECTION 3. PROCEEDINGS IN THE COURTS OF CIVIL APPEALS

Rule 412. Order of Hearing

Cases upon the trial docket of the court which have not been advanced shall be set for submission at least four weeks ahead of the date of submission and the parties or their attorneys of record shall be notified of the date of submission as provided by Rule 411. Amended by order of October 10, 1951, effective March 1, 1952.

Source: Art. 1848, first sentence, with minor textual change.

Change by amendment effective March 1, 1952: Setting of cases to be made at least four weeks instead of eight weeks ahead of submission.

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THE PENAL CODE

TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY, AND REVENUE

CHAPTER TWO.—MISAPPLICATION OF PUBLIC MONEY

Art. 101a. Repealed. Acts 1951, 52nd Leg., p. 313, ch. 189, § 1. Eff.
90 days after June 8, 1951, date of adjournment

The emergency section of the repealing Act recited that the repealed Act imposed an unnecessary burden on county clerks and county auditors.

TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

CHAPTER EIGHT—MISCELLANEOUS OFFENSES

Art.
438c. Simulation of legal process [New].

Art.
438d. Printing, circulating or selling simulation of legal process [New].

Art. 432. 381 Nepotism

No officer of this State nor any officer of any district, county, city, precinct, school district, or other municipal subdivision of this State, nor any officer or member of any State district, county, city, school district or other municipal board, or judge of any court, created by or under authority of any General or Special Law of this State, nor any member of the Legislature, shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of any such board, the Legislature, or court of which such person so appointing or voting may be a member, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever; provided, that nothing herein contained, nor in any other nepotism law contained in any charter or ordinance of any municipal corporation of this State, shall prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty for a period of two (2) years prior to the election or appointment of the officer or member appointing, voting for, or confirming the appointment, or to the election or appointment of the officer or member related to such employee in the prohibited degree. As amended Acts 1949, 51st Leg., p. 227, ch. 126, § 1; Acts 1951, 52nd Leg., p. 159, ch. 97, § 1.

Emergency. Effective April 30, 1951.
Section 2 of the amendatory act of 1949
and section 2 of the amendatory act of 1951

each repealed conflicting laws and parts of laws.

Art. 438c. Simulation of legal process**Circulation of simulated process prohibited**

Section 1. It shall be unlawful for any person, firm or corporation to send or deliver, or cause to be sent or delivered any letter, paper, document, notice of intent to bring suit, or other notice or demand, which simulates a form of court or legal process, with intent to lead the recipient or sendee to believe the same to be genuine, for the purpose of obtaining any money or thing of value whatsoever. The sending of such simulating document shall be prima facie evidence of such intent, and it shall be no defense to show that the document bears any statement to the contrary, nor shall it be a defense to show that the money or thing of value sought to be obtained was to apply as payment on a valid obligation.

Evidence of delivery

Sec. 2. In prosecutions for violation of this Act, the prosecution may show that the simulating document was deposited in the post office for mailing or was delivered to any person with intent to be forwarded, and such showing shall be sufficient proof of the sending or delivery.

Venue

Sec. 3. Any person violating this Act may be tried therefor in the county where such simulating document was so deposited, or the county where the same was received.

Exception

Sec. 4. Nothing in this Act shall be construed to prohibit the printing, publication or distribution of blank forms of genuine court or legal process.

Penalties

Sec. 5. Any person, firm or corporation violating this Act shall be fined, for the first offense, not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars, and for the second and subsequent offenses not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars. Acts 1951, 52nd Leg., p. 616, ch. 364.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act making it unlawful to send or deliver or cause to be sent or delivered any letter, paper, document, notice of intent to bring suit, or other notice or demand,

which simulates a form of court or legal process, with intent to lead the recipient or sendee to believe the same to be genuine, for the purpose of obtaining any money or thing of value; prescribing penalties; and declaring an emergency. Acts 1951, 52nd Leg., p. 616, ch. 364.

Art. 438d. Printing, circulating or selling simulation of legal process

Section 1. Any person, firm or corporation who shall print for the purpose of sale or distribution, or who shall circulate, publish or offer for sale any letter, paper, document, notice of intent to bring suit, or other notice or demand, which simulates a form of court or legal process, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Ten (\$10.00) Dollars or more than One Hundred (\$100.00) Dollars for the first offense, and not less than One Hundred (\$100.00) Dollars or more than Five Hundred (\$500.00) Dollars for the second or any subsequent offense.

Sec. 2. It shall be no defense that the paper or other instrument referred to in Section 1 shall declare that it is not a court or legal process.

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

Sec. 3. Nothing in this Act shall prevent the printing, publication, sale, or distribution of genuine legal forms for the use of attorneys, clerks of courts, or justices of the peace. Acts 1951, 52nd Leg., p. 670, ch. 387.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act making it a misdemeanor to print for sale or distribution, or to circulate, distribute, publish or offer for sale, any letter,

paper, document, notice of intent to bring suit, or other notice or demand, which simulates a form of court or legal process; prescribing penalties; and declaring an emergency. Acts 1951, 52nd Leg., p. 670, ch. 387.

TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

CHAPTER THREE—AFFRAYS AND DISTURBANCES OF THE PEACE

Art. 480. 473, 336 Shooting in public place

Any person who discharges any gun, pistol or firearm of any kind, or who discharges an air rifle or air pistol of any description, by whatever name known that by means of compressed air, compressed gas, springs, or any other means is capable of discharging shots, pellets, or any solid object at a velocity in excess of three hundred (300) feet per second, or discharges any cannon cracker, or torpedo on or across any public square, street, or alley of any town or city or within one hundred (100) yards of any business house in this State shall be fined not more than One Hundred Dollars (\$100). A "cannon cracker" is any combustible package more than two (2) inches long and more than one (1) inch through. As amended Acts 1951, 52nd Leg., p. 447, ch. 274, § 1.

Emergency. Effective May 19, 1951.

CHAPTER FOUR—UNLAWFULLY CARRYING ARMS

Art. 483. 475, 338, 318 Unlawfully carrying arms

Whoever shall carry on or about his person, saddle or in his saddle bags, or in his portfolio or purse any pistol, dirk, dagger, slung-shot, blackjack, hand chain, night stick, pipe stick, sword cane, spear or knuckles made of any metal or any hard substance, bowie knife or any other knife manufactured or sold for the purposes of offense or defense shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or by confinement in jail for not less than one (1) month nor more than one (1) year. As amended Acts 1951, 52nd Leg., p. 863, ch. 486, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

CHAPTER ONE—BANKING

Art. 567b. Giving check, draft or order without sufficient funds

Unlawful acts

Section 1. It shall be unlawful for any person to procure any article or thing of value, or to secure possession of any personal property to which a lien has attached, or to make payment of any pre-existing debt

or other obligation of whatsoever form or nature, or for any other purpose to make or draw or utter or deliver, with intent to defraud, any check, draft or order, for the payment of money, upon any bank, person, firm or corporation, knowing at the time of such making, drawing, uttering or delivering, that the maker, or drawer, has not sufficient funds in, or on deposit with, such bank, person, firm or corporation, for the payment of such check, draft or order, in full, and all other checks, drafts or orders upon such funds then outstanding.

Prima facie evidence

Sec. 2. As against the maker, or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima-facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, such bank, person, firm or corporation, provided such maker or drawer shall not have paid the holder thereof the amount due thereon, within ten (10) days after receiving notice that such check, draft or order has not been paid by the drawee.

Notice

Sec. 3. The word "notice" as used herein shall be construed to include either notice given to the person entitled thereto in person or notice given to such person in writing. Such notice in writing shall be conclusively presumed to have been given when deposited, as registered matter, in the United States mail, addressed to such person at his address as it appears on such check, draft or order.

Penalties

Sec. 4. For the first conviction for a violation of this Act, in the event the check, draft, or order given on any bank, person, firm, or corporation, is Five Dollars (\$5) or less, the punishment shall be a fine not exceeding Two Hundred Dollars (\$200). For the first conviction for a violation of this Act, in the event the check, draft, or order given on any bank, person, firm or corporation, is in excess of Five Dollars (\$5) but less than Fifty Dollars (\$50), punishment shall be by imprisonment in the county jail not exceeding two (2) years, or by a fine not exceeding One Thousand Dollars (\$1,000), or by both such fine and imprisonment.

If it be shown on the trial of a case involving a violation of this Act in which the check, draft, or order given on any bank, person, firm or corporation, is less than Fifty Dollars (\$50), that the defendant has been once before convicted of the same offense, he shall, on his second conviction, be punished by confinement in the county jail for not less than thirty (30) days nor more than two (2) years, and by a fine not exceeding Two Thousand Dollars (\$2,000).

If it be shown upon the trial of a case involving a violation of this Act where the amount of the check, draft, or order is less than Fifty Dollars (\$50), that the defendant has two (2) or more times before been convicted of the same offense, regardless of the amount of the check, draft or order involved in the first two (2) convictions, upon the third or any subsequent conviction, the punishment shall be by confinement in the penitentiary for not less than two (2) nor more than ten (10) years, and by a fine not exceeding Five Thousand Dollars (\$5,000).

For a violation of this Act, in the event the check, draft amount of Fifty Dollars (\$50), or more, punishment shall be by confinement in the penitentiary for not less than two (2) years nor more than ten (10) years, and by a fine not exceeding Ten Thousand Dollars (\$10,000).

Process and witnesses

Sec. 5. In all prosecutions under this Act, process shall be issued and served in the county or out of the county where the prosecution is pending and have the same binding force and effect as though the offense being prosecuted were a felony; and all officers issuing and serving such process in or out of the county wherein the prosecution is pending, and all witnesses from within or without the county wherein the prosecution is pending, shall be compensated in like manner as though the offense were a felony in grade.

Suggestion for dismissal by complaining witness; penalty

Sec. 6. If any person who has theretofore filed a complaint with any district or county attorney of this State alleging a violation of this Act, or who has furnished information to any such district or county attorney which has resulted in the acceptance by such district or county attorney of such a complaint, or who has testified concerning such a violation before a grand jury of this State which has thereafter returned an indictment on such violation, shall suggest to or request the county or district attorney in charge of such prosecution, that such case be dismissed, he shall be guilty of a misdemeanor, and, upon conviction thereof shall be fined not less than One Hundred Dollars (\$100), nor more than Five Hundred Dollars (\$500).

Partial unconstitutionality

Sec. 7. If any section, subsection, clause, phrase, or sentence of this Act is for any reason held to be unconstitutional or invalid, 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, clause, phrase or sentence thereof, irrespective of the fact that one or more of the sections, subsections, clauses, phrases or sentences be declared unconstitutional. As amended Acts 1951, 52nd Leg., p. 496, ch. 305, § 1.

Emergency. Effective May 28, 1951.

CHAPTER TWO—INSURANCE

Art. 590a. Repealed. Acts 1951, 52nd Leg., p. 868, ch. 491, § 4, eff. Sept. 7, 1951.

CHAPTER SIX.—GAMING

Art.
642a. Slot machines [New].
642b. Punch boards [New].

Art.
642c. Policy games [New].

Art. 642a. Slot machines

Definition of slot machine

Section 1. The term "slot machine," as used in this Act, means:

(a) Any so-called "slot machine" or any other machine or mechanical device, by whatsoever name known, an essential part of which is a drum or reel with insignia thereon, and

(1) which when operated may deliver, as the result of the application of an element of chance, any money, or property or other valuable thing,
 or

(2) by the operation of which a person may be entitled to receive, as the result of the application of an element of chance, any money or property or other valuable thing; or

(b) Any machine or mechanical device designed and manufactured or adapted to operate by means of the insertion of a coin, token, or other object and designed, manufactured or adapted so that when operated it may deliver, as the result of an application of an element of chance, any money or property; or

(c) Any subassembly or essential part intended to be used in connection with such machine or mechanical device.

Felony; acts constituting; punishment

Sec. 2. Whoever shall manufacture, own, store, keep, sell, rent, lease, let on shares, lend or give away, transport or possess a slot machine, as defined in Section 1, shall be guilty of a felony and upon conviction thereof shall be confined in the State penitentiary not less than two (2) years nor more than four (4) years.

Suppression of violations; entry and search

Sec. 3. Whenever it comes to the knowledge of any sheriff or other peace officer, by affidavit of a reputable citizen, or otherwise, that any provision of this Act is being violated, such officer shall immediately avail himself of all lawful means to suppress such violation; and he shall be authorized, by any search warrant that is issued by virtue of this law, to enter any house, room or place to be searched, using such force as may be necessary to accomplish such purpose.

Issuance of search warrant; application; use of evidence obtained

Sec. 4. A warrant to search for and seize a slot machine alleged to be stored, kept or possessed in any house, room, or place may be issued by a magistrate when a written, sworn complaint is made to the magistrate setting forth:

1. The name of the person accused of storing, keeping or possessing such machine; or if his name is unknown, giving a description of the accused, or stating that the person who stores, keeps or possesses such slot machine is unknown;

2. The place where it is alleged that the slot machine is stored, kept, or possessed;

3. That the person complaining has good grounds to believe that the slot machine is stored, kept or possessed in the house, room or place alleged, and in the event a slot machine is being stored, kept or possessed, to take possession of any slot machine found therein, to arrest any person found in possession of any slot machine, and such officer shall immediately take the persons arrested before the nearest magistrate, and lodge the proper complaint against each person so arrested. Provided that any evidence obtained as a result of a search made under or by reason of any search warrant issued under the provisions of this Act shall not be used, received or admitted in evidence upon the trial of, or to establish any offense other than that relating to slot machines as defined in this Act.

Seizures; notice to show cause

Sec. 5. It shall be the duty of every sheriff, or other peace officer by virtue of the warrant authorized by this Article to seize and take into his possession all slot machines, the existence of which has come to his knowledge and to immediately file with the justice of the peace, county judge, or district judge, a written list of the property seized designating the place where same was seized, and the owner of same, or the person from whom possession was taken. Thereupon said justice of the peace, county

or district judge shall note the same upon his docket and issue, or cause the clerk of the court to issue a written notice to the owner or person in whose possession the articles seized were found, commanding him to appear at a designated time, not earlier than five (5) days from the service of such notice, and show cause why such articles should not be destroyed. If personal service cannot be had upon the person to whom same is directed, a copy of said notice shall be posted for not less than five (5) days, either upon the court house door of the county where the proceedings are begun or upon the building or premises from which the property seized was taken.

Hearing and order; destruction of machines; confiscation of contents

Sec. 6. (a) If upon a hearing of the matter referred to in the preceding Sections, the justice of the peace, county judge or district judge, before whom the cause is pending, shall determine that the property seized is a slot machine, he shall order same to be destroyed, but any part of same may, by order of the court be held as evidence to be used in any case until the case is finally disposed of. Property not of that character shall be ordered returned to the person entitled to possession of the same. The officer, within not less than fifteen (15) nor more than thirty (30) days from the entry of said order shall destroy all property the destruction of which has been ordered by the court, unless the owner, lessee or person entitled to possession under this law shall, before the destruction of said property, file suit to recover same.

(b) If upon a hearing of the matter referred to in the preceding sections of this Article, the justice of the peace, county judge or district judge before whom the cause is pending, shall determine that the property seized is a slot machine, then any money or coins seized in or with said slot machine shall, by order of the court, be declared confiscated, and the court shall cause the same to be delivered to the State of Texas or any political subdivision thereof, or to any State institution to be used by it for its own use and benefit, or the court may in its discretion order such money or coins to be delivered to the grand jury of the county in which such slot machine was seized to be used by said grand jury for the purpose of investigating the violation of the gaming laws of this State or for the purpose of investigating violations of any of the provisions of the Penal Code of this State. At the end of the term of each grand jury and before the discharge of the same, the grand jury shall report to the district judge impanelling the same the amount of money received under the provisions of this Section and an accounting of all funds expended, and the balance of such funds if any, shall be turned over to the clerk of said district court, to be held by said clerk until the next grand jury is impanelled, at which time such money will be turned over and delivered to such succeeding grand jury.

Law cumulative

Sec. 7. The offense defined herein and the punishment provided are cumulative of other laws relating to gaming and searches, and the provisions of this Act shall not repeal any existing laws of this State relating to gaming and searches.

Partial invalidity

Sec. 8. Should any Section or part of this Act be held invalid it shall not affect or invalidate any other Section or part thereof.

Effective date

Sec. 9. The provisions of this Act shall take effect and be in force from and after thirty (30) days after approval by the Governor. Acts 1951, 52nd Leg., p. 299, ch. 178.

Art. 642b. Punch boards

Section 1. The term "punch board" as used in this Act means:

(a) Any board, card, or device which consists of covered holes, each filled with a rolled or folded slip containing a concealed number, name, or symbol of any kind whatsoever, and which, when punched out or removed, indicates whether the player receives, as the result of the application of an element of chance, nothing or a prize of money or other thing of value; or

(b) Any board, card, or device containing concealed or covered numbers, names, or symbols of any kind whatsoever, and each such number, name, or symbol, when uncovered or revealed, indicates whether the player receives, as the result of the application of an element of chance, nothing or a prize of money or other thing of value; or

(c) Any board, card, or device, by whatsoever name or description known, which permits the player to select in any manner a number or numbers, name or names, symbol or symbols, of any kind whatsoever, and which, when so selected, indicates whether the player receives, as the result of the application of an element of chance, prize of money or other thing of value.

Sec. 2. Whoever shall manufacture, own, store, keep, exhibit, sell, rent, lease, let on shares, lend or give away, transport or possess a punch board, as defined in Section 1, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment.

Sec. 3. The offense defined herein and the punishment provided shall be cumulative of all other laws relating to gaming and searches and the procedure for the destruction of gaming devices, and the provisions of this Act shall not repeal any existing laws of this State relating to gaming and searches and the procedure for the destruction of gaming devices.

Sec. 4. Should any section or part of this Act be held invalid, it shall not affect or invalidate any other section or part thereof. Acts 1951, 52nd Leg., p. 464, ch. 294.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act defining a punch board; providing a penalty for the manufacture, ownership, storing, keeping, exhibiting, selling, renting, leasing, letting on shares, lending,

or giving away, transportation, or possession of a punch board; providing this Act shall be cumulative of all existing laws relating to gaming and to search and to destruction of gaming devices; providing a savings clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 464, ch. 294.

Art. 642c. Policy games**Keeping or exhibiting**

Section 1. Any person who shall directly, or as agent, servant, or employee for another, or through any agent, servant, employee, or other person, keep or exhibit for the purpose of gaming, any policy game, shall be guilty of a felony and upon conviction shall be punished by confinement in the State penitentiary for any term of years not less than two (2) nor more than four (4).

Taking, accepting or placing bets; playing or delivering bets; possessing paraphernalia

Sec. 2. Any person who takes or accepts or places for another a bet or wager of money or other valuable thing upon any policy game; or any person who offers to take or accept or place for another a bet or wager

of money or other valuable thing upon any policy game; or any person who plays or places or delivers a bet or wager of money or other valuable thing upon any policy game; or any person who shall possess, except for evidence purposes, any writing, paper, print, number, device, press, policy slip, policy book, policy dream book, policy player's guide or article of any kind or character whatever designed or adaptable for use in connection with any policy game; or any person who aids or encourages in any manner in any of the offenses or acts named herein, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment.

Permitting use of property

Sec. 3. Any owner, agent, lessor or lessee of any real or personal property who shall knowingly use or knowingly permit such property to be used in connection with any policy game shall be guilty of a misdemeanor and upon conviction shall be punished as set forth under Section 2 of this Act.

Nuisances; abatement; bond

Sec. 4. Any room, place, building, structure, or property used in connection with any offense under this Act is hereby declared to be a public nuisance. Whenever the District Attorney, Criminal District Attorney, County Attorney, or Attorney General has reliable information that such a nuisance exists he shall file a suit in the name of the State in the county where the nuisance is alleged to exist to abate such nuisance. If judgment be in favor of the State then judgment shall be rendered abating such nuisance and enjoining the defendant or defendants from maintaining the same and ordering the said premises to be closed for one (1) year from date of said judgment unless the defendants in said suit or the owner, tenant or lessee of said property make bond payable to the State at the county seat of the county where such nuisance is found to exist in the penal sum of not less than One Thousand Dollars (\$1,000) nor more than Five Thousand Dollars (\$5,000) with good and sufficient sureties to be approved by the judge trying the case, conditioned that the acts prohibited in this Act shall not be done or permitted to be done in or upon said premises or the terms of the injunction violated. On the violation of any conditions of such bond or injunction the whole sum may be recovered as a penalty in the name of and for the State in the county where such conditions are violated, all such suits to be brought by the District Attorney, Criminal District Attorney, or County Attorney of such county or the Attorney General of Texas.

Allegation and proof

Sec. 5. Upon the trial for any offense under this Act it shall not be necessary for the State to allege or prove that money or other thing of value was won or lost thereon.

Accomplice testimony; compulsory testimony

Sec. 6. A conviction may be had for violation of any of the provisions of this Act upon the uncorroborated testimony of any accomplice. Any party to a transaction prohibited by this Act may be required to furnish evidence and testify, but after so furnishing evidence or so testifying, such person shall not be prosecuted with reference to any transaction about which he is required to furnish evidence and testify.

Joint indictment and trial

Sec. 7. Two (2) or more persons may be jointly indicted in single or multiple counts of the same indictment for the violation of any of the provisions of this Act, and at the election of the State be jointly tried; provided that upon any such joint trial the defendants may testify as witnesses for one another.

Arrest without warrant

Sec. 8. It shall be the duty of all peace officers to arrest without warrant any and all persons violating any provisions of this Act, whenever such violation shall be committed within the view of such officer or officers.

Law cumulative; conflict with existing law

Sec. 9. The provisions of this Act shall be cumulative of all existing provisions of the Penal Code of the State of Texas and in the event of a conflict between existing law and the provisions of this Act, the provisions of this Act shall prevail over existing law.

Partial invalidity

Sec. 10. If any clause, provision, requirement, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not invalidate the remainder of this Act; but shall be confined in its operation to the clause, provision, requirement, or part hereof declared invalid. Acts 1951, 52nd Leg., p. 781, ch. 434.

Emergency. Effective June 15, 1951.

CHAPTER EIGHT.—TEXAS LIQUOR CONTROL ACT

1. INTOXICATING LIQUORS

Art.
666—21½. Regulation of manner of collecting taxes on wine; dispensing with use of stamps [New].
666—27½. Continuing contracts with holders of wholesalers' permits [New].

2. MALT LIQUORS

Art.
667—19C. Purchases other than for cash; dishonor of checks or drafts [New].
667—24¼. Sale other than for cash; dishonored checks or drafts [New].

I. INTOXICATING LIQUORS

Art. 666—15. Classification of permits

(9) Wine Only Package Store Permit. A Wine Only Package Store Permit shall authorize the holder thereof to:

(a) Purchase ale and wine and vinous liquors from the holders in this State of Class A Winery, Class B Winery, Wine Bottler's Wholesaler's and Class B Wholesaler's Permits;

(b) Sell ale and wine and vinous liquors on or from licensed premises at retail to consumer for off-premises consumption only and not for the purpose of resale, in unbroken original containers only;

(c) Sell ale and wine and vinous liquors, in unbroken original containers of not less than six (6) ounces;

(d) Sell ale and wine and vinous liquors but in quantities of not more than five (5) gallons in unbroken original containers in any single transaction.

(e) Any person holding more than one Wine Only Package Store Permit may designate one of the licensed premises as the place for storage of ale and wine and vinous liquors, and he shall be privileged

to transfer ale and wine and vinous liquors to and from such storage to and from his other licensed premises under such rules and regulations as may be prescribed by the Board.

The annual State fee for a Wine Only Package Store Permit in cities and towns shall be based on population according to the last preceding Federal Census as follows:

Population	Fee
2,000 or less	\$ 5.00
2,001 to 5,000	7.50
5,001 to 10,000	10.00
10,001 or more	12.50

The annual State fee for a Wine Only Package Store Permit outside of cities and towns shall be Five Dollars (\$5), except the annual State fee for a Wine Only Package Store Permit within two (2) miles of the corporate limits of a city or town shall be the same as the fee required in said incorporated city or town. As amended Acts 1951, 52nd Leg., p. 272, ch. 157, § 1.

Emergency. Effective May 10, 1951.

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 an interest either directly or indirectly in a Manufacturer's License or a General Distributor's License or a Branch Distributor's License or a Local Distributor's License or a Wine and Beer Retailer's Permit or a Retail Dealer's On-Premise License or a Retail Dealer's Off-Premise License or the business thereof. It shall also be unlawful for any person holding a Wine Only Package Store Permit or owning an interest in a Wine Only Package Store Permit to have an interest either directly or indirectly in a Manufacturer's License or a General Distributor's License or a Branch Distributor's License or a Local Distributor's License or a Wine and Beer Retailer's Permit or a Retail Dealer's On-Premise License or the business thereof. The restrictions against any person who is the holder of a Package Store Permit or the owner of an interest in a Package Store having an interest either directly or indirectly in a Retail Dealer's Off-Premise License, shall not be applicable provided the Package Store Permit and the Retail Dealer's Off-Premise License are issued to the same person and for the same address and for the same trade name. The holder of a Retail Dealer's Off-Premise License, who is also the holder of a Package Store Permit may sell beer direct to the consumer, but not for resale and not to be opened or consumed on or near the premises where sold, and such sales may be made only in lots of not less than six (6) containers (as defined in Article II) holding twelve (12) ounces each, or in full multiples of such lots; or in lots of not less than three (3) containers (as defined in Article II) holding twenty-four (24) ounces each, or in full multiples of such lots; or in lots of not less than three (3) containers (as defined in Article II) holding thirty-two (32) ounces each, or in full multiples of such lots, except that the holder of a Retail Dealer's Off-Premise License who is also the holder of a Wine Only Package Store Permit may sell beer to the consumer by the container, but not for resale and not to be opened or consumed on or near the premises where sold. Such holders of Retail Dealer's Off-Premise Licenses are authorized to sell beer under the same restrictions and shall be liable for penalties provided in Article I of the Texas Liquor Control Act, governing the sale of liquor by Package Stores and

Wine Only Package Stores, as to the hours of sale and delivery, blinds and barriers, employment of a person under the age of twenty-one (21) years, sales and delivery on Sunday, advertising, sale and delivery during any primary election day or general election day, sale and delivery to a person under the age of twenty-one (21) years; for the violation of any other provisions of this Act the holders of such licenses shall be subjected to the penalties provided in Article II of this Act.

Should any person holding a Package Store Permit or a Wine Only Package Store Permit, who is also the holder of a Beer Retail Dealer's Off-Premise License violate any provision of the Texas Liquor Control Act, as amended, or any Rule and Regulation of the Board made pursuant thereto, such violation shall constitute grounds for the suspension or cancellation of any or all permits and licenses held by such person. As amended Acts 1951, 52nd Leg., p. 110, ch. 66, § 1.

Emergency. Effective April 20, 1951.

(2) It shall be unlawful for any person after the effective date of this Act,¹ directly or indirectly, to hold or have an interest in more than five (5) Package Store Permits, the business thereof, or any interest in such Package Stores. For the purpose of this Section a husband shall be deemed to have an interest in all permits in which his wife has any interest, and a wife shall be deemed to have an interest in all permits in which her husband has any interest. For the purpose of construing this Section 17 (2),² the stockholders of a corporation holding a Package Store Permit, the managers, officers, agents, servants, and employees thereof, shall be deemed to have an interest in such permit, in the business of such corporation, and in such Package Store; provided that this Section 17 (2) shall not in any manner affect or apply to any Package Store Permit or the renewal thereof issued before and in effect on May 1, 1949, and the Board or Administrator shall grant and issue upon proper application a renewal of each Package Store Permit which is in effect on May 1, 1949, if the applicant shall be otherwise qualified therefor under the provisions of this Article regardless of the provisions of this Section 17 (2).

Should any person hereafter holding more than five (5) Package Store Permits, or any interest therein, have any of such permits in excess of five (5) cancelled by the Board, either voluntarily or for cause, then such person shall not have the privilege of obtaining any additional permit in lieu thereof, neither shall he be permitted to place any permit in suspense with the Board so long as he has an interest in more than five (5) permits.

This provision shall not apply to the stockholders, managers, officers, agents, servants and employees of corporations operating hotels in cases where the Package Stores operated by such corporations are in hotels.

(a) Where a majority of the ownership in each of more than one (1) legal entity, holding Package Store Permits under this Act, is owned by one (1) person, or by persons related within the first degree of consanguinity, the businesses thereof may be consolidated under one (1) legal entity and the permits shall be issued to such entity notwithstanding any other provision of this Act and further provided that after such consolidation it shall be illegal to transfer any of such permits to any other county. As amended Acts 1951, 52nd Leg., p. 110, ch. 66, § 2.

¹ Articles 666—1 et seq., 667—1 et seq.

² This subsection.

Emergency. Effective April 20, 1951.

(15) 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; provided further that any bona fide common carrier of persons, engaged in interstate commerce, may be authorized by the Board to transport liquor in containers of less than one half ($\frac{1}{2}$) pint but not for sale, use or consumption in Texas.

The Board may adopt such reasonable regulations as may be necessary to give effect to the above provision. As amended Acts 1951, 52nd Leg., p. 110, ch. 66, § 3.

Emergency. Effective April 20, 1951.

Art. 666—21. Fees and taxes

There is hereby levied and imposed on the first sale in addition to the other fees and taxes levied by this Act¹ the following:

(a) A tax of \$1.408 per gallon on each gallon of distilled spirits, providing the minimum tax on any package of distilled spirits shall be \$0.088.

(b) A tax of \$0.11 on each gallon of vinous liquor that does not contain over fourteen per cent (14%) of alcohol by volume.

(c) A tax of \$0.22 on each gallon of vinous liquor containing more than fourteen per cent (14%) and not more than twenty-four per cent (24%) of alcohol by volume.

(d) A tax of \$0.275 on each gallon of artificially carbonated and natural sparkling vinous liquor.

(e) A tax of \$0.55 on each gallon of vinous liquor containing alcohol in excess of twenty-four per cent (24%) by volume.

(f) A tax of \$0.165 on each gallon of malt liquor containing alcohol in excess of four per cent (4%) by weight.

The term "first sale" as used in Article I of this Act shall mean and include the first sale, possession, distribution, or use in this State of any and all liquor refined, blended, manufactured, imported into, or in any other manner produced or acquired, possessed, or brought into this State.

The tax herein levied shall be paid by affixing a stamp or stamps on each bottle or container of liquor. Said stamps shall be affixed in strict accordance with any rule or regulation promulgated in pursuance of this Act; provided, however, any holder of a permit as a retail dealer as that term is defined herein shall be held liable for any tax due on any liquor sold on which the tax has not been paid.

It shall be the duty of each person who makes a first sale of any liquor in this State to affix said stamps on each bottle or container of liquor and to cancel the same in accordance with any rule and regulation of the Board. The Board shall have power to relax the foregoing provision when in its judgment it would be impracticable to require the affixing of such stamp on the bottle or container, irrespective of any other provision of this Act. And any person, persons, or association who violates any portion of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year. Every holder of a permit authorizing the wholesaling of liquor, upon receipt of a shipment of liquor for sale within this State, under the provisions of this Act, shall prepare and furnish such information and such reports as may be required by rules and regulations of the Board. Any person authorized to export liquor from this State having in his possession any liquor intended for shipment to any place without

the State, shall keep such liquors in a separate compartment from that of liquors intended for sale within the State so that the same may be easily inspected and shall attach to each such package of liquor so intended for shipment without the State a stamp of the kind and character that shall be required by proper rule or regulation denoting that the same is not intended for sale within the State. When such liquors are so kept and so stamped no tax on account thereof shall be charged. For defraying the expenses thereof, a charge of Twenty-five Cents (25¢) shall be made for every such stamp, except that a charge of Ten Cents (10¢) shall be made for each such stamp placed on vinous or malt liquors of twenty-four per cent (24%) alcoholic content or less. All such permittees authorized to transport liquor beyond the boundaries of this State shall furnish to the Board duplicate copies of all invoices for the sale of such liquors, within twenty-four (24) hours after such liquors have been removed from their place of business. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § VIII.

¹ Articles 666—1 et seq., 667—1 et seq.
Emergency. Effective Sept. 1, 1951.

Art. 666—21a. Stamps; issuance

Stamps for spirituous liquor shall be issued only in multiples of the rate assessed for each half-pint; stamps for wine shall be issued in multiples of the rate assessed for each pint and for each one-tenth (1/10) of a gallon; stamps for malt liquors containing alcohol in excess of four per cent (4%) by weight shall be issued in multiples of the rate assessed for each seven (7) fluid ounces, each eight (8) fluid ounces, or each twelve (12) fluid ounces; provided that where any such liquors are contained in containers of one-fifth (1/5) of a gallon, stamps shall be issued therefor at the assessed rate for each such type of liquor; and provided further, that where any such distilled spirits are contained in containers of one-tenth (1/10) of a gallon, stamps shall be issued therefor at the assessed rate for each such type of distilled spirits. It is further provided that the taxes herein levied and assessed shall be paid and collected by stamps as provided in this Section. Provided further that the Board may authorize the affixing of stamps of various denominations to cases of ale if the total of such stamps affixed evidences the payment of all taxes due thereon. But nothing herein shall affect the powers and rights conferred upon the Texas Liquor Control Board in Article VII of House Bill No. 3 of the First Called Session of the Fifty-first Legislature.¹ As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § VIII-A.

¹ Article 666—21½.
Emergency. Effective Sept. 1, 1951.

Art. 666—21⅓. Regulation of manner of collecting taxes on wine; dispensing with use of stamps

The Board shall have the power to make rules and regulations relative to the manner and method of collecting State taxes levied on wine. Such power shall include the right to determine whether or not stamps evidencing the payment of such tax shall be affixed to the containers. Should the Board adopt a manner or method of collection, or rules and regulations which do not require the affixing of tax stamps to the containers, then it shall not be necessary for such stamps to be affixed to such containers. And likewise, it shall not be unlawful, if the tax has been paid on such wine in accordance with the rules of the Board, and the Texas Liquor Control Act is otherwise complied with, for any holder of a permit authorizing the holder to sell wine either on or off-premises, to

have in his possession or sell wine which does not have tax stamps affixed to the containers. Nor shall it be unlawful, in such case, for any person to possess wine without the tax stamp being affixed to the container, if the tax on such wine has been paid and if such person is otherwise complying with the laws of this State. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 21 $\frac{1}{3}$, added Acts 1951, 52nd Leg., p. 370, ch. 234, § 1.

Emergency. Effective Sept. 1, 1951. trol Act or other Acts in conflict herewith
 Section 2 of the Act of 1951, provided are repealed to the extent of such conflict
 that any portion of the Texas Liquor Con- only.

Art. 666—27 $\frac{1}{2}$. Continuing contracts with holders of wholesalers' permits

The entering into of a contract for the sale and purchase of a specified quantity of liquor to be delivered over an agreed period of time, between any brewer, distiller, winery, manufacturer or nonresident seller of any liquor and the holder of a wholesaler's permit under this Act shall not be unlawful, if such contract has been submitted to and approved by the Texas Liquor Control Board or the Administrator thereof and has been found by such Board or Administrator not to be calculated to induce or bring about violation of the Texas Liquor Control Act. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 27 $\frac{1}{2}$, added Acts 1951, 52nd Leg., p. 366, ch. 231, § 1.

II. MALT LIQUORS

Art. 667—1. Definitions

Destruction of old licenses, applications, and copies of notices, see *Vernon's Ann. Civ.St.* art. 6581a.

Art. 667—19C. Purchases other than for cash; dishonor of checks or drafts

The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any Retail Dealer's Off-Premise License or Retail Dealer's On-Premise License or any renewal of such license, upon finding that the licensee has:

(a) Purchased after the effective date of this Act, any beer or the containers or original packages in which the same is contained or packaged except for cash paid to the seller on or before the delivery thereof. Any maneuver, device, subterfuge or shift of any kind whereby credit is accepted shall constitute a violation of this Act and shall subject the license of the offender to cancellation or suspension. Payment by post-dated check or draft is prohibited and the use or attempted use thereof for the purpose of making such purchases is hereby made unlawful. Credit for the return of unbroken or undamaged containers or original packages previously paid for by the purchaser may be accepted as cash by the seller in an amount not to exceed the amount originally paid therefor by said purchasers; or

(b) Has given a check or checks, either as the maker or endorser thereof, or has given a draft or drafts, either as the drawer or endorser thereof, in payment in whole or in part for beer or the containers or original packages in which such beer is contained or packaged which check or checks or draft or drafts is dishonored by the drawee when presented to such drawee for payment. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 2, § 19-C, added Acts 1951, 52nd Leg., p. 28, ch. 22, § 1.

Emergency. Effective March 17, 1951.

Art. 667—23. Tax on beer

There is hereby levied and assessed a tax at the rate of \$1.37 per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this state. As amended Acts 1949, 51st Leg., p. 1011, ch. 543, § 22; Acts 1951, 52nd Leg., p. 695, ch. 402, § XX.

Emergency. Effective Sept. 21, 1951.

Art. 667—24 $\frac{1}{4}$. Sale other than for cash; dishonored checks or drafts

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) Cash Sales: To sell beer or the containers or original packages in which the same is contained or packaged, to any holder of a Retail Dealer's Off-Premise License or to any holder of a Retail Dealer's On-Premise License except for cash paid on or before the delivery to the purchaser of same; to accept post-dated checks or drafts in payment for such beer, containers or original packages. Any maneuver, device, subterfuge or shift of any kind whereby credit is extended to such licensee shall constitute a violation of this Act and shall subject the license of the offender to cancellation or suspension. Valid checks or drafts payable on demand may be accepted as cash. When such checks or drafts are accepted in payment for such commodities, they must be deposited in the bank for payment or presented for payment forthwith and within two (2) days (Sundays and legal holidays excepted) after they are received. If any such checks or drafts are dishonored by the drawee when presented to the drawee for payment, then it shall be the duty of the manufacturer or distributor accepting them to report such non-payment forthwith and within two (2) days (Sunday and legal holidays excepted) after receiving notice of non-payment of same to the Board. Such report shall be on forms prescribed by the Board and contain such information as required by the Board. The purpose of this provision is to prohibit the sale of beer or the containers or original packages in which it is contained or packaged except for cash, and the Board is hereby given the authority to promulgate and enforce any and all necessary rules and regulations to accomplish this purpose. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 2, § 24 $\frac{1}{4}$, added Acts 1951, 52nd Leg., p. 28, ch. 22, § 2.

Emergency. Effective March 17, 1951.

TITLE 12—PUBLIC HEALTH**CHAPTER ONE—ACTS INJURIOUS TO HEALTH****Art. 700b. Sterlization of dishes; use of broken or cracked dishes and unlaundered napkins****Sterilization of Dishes, Receptacles, or Utensils**

Sec. 2. No person, firm, corporation, or association operating, managing, or conducting any hotel, cafe, restaurant, dining car, drug store, soda water fountain, meat market, bakery, or confectionary, liquor dispensary, or any other establishment where food or drink of any kind is served or permitted to be served to the public shall furnish to any person any dish, receptacle, or utensil used in eating, drinking, or conveying food if such dish, receptacle, or utensil has not been washed after each service until clean to the sight and touch in warm water containing soap or alkali cleanser. After cleaning, all glasses, dishes, silverware, and other re-

ceptacles and utensils shall be (a) placed in wire cages and immersed in a still bath of clear water heated to a minimum temperature of 170° F for at least three (3) minutes, or two (2) minutes at 180° F; or (b) immersed for at least two (2) minutes in a lukewarm chlorine bath containing at least 50 ppm of available chlorine if hypochlorites are used, or a concentration of equal bacteriacidal strength if chloramines are used; provided, however, the bath shall be made up at a strength of 100 ppm or more of hypochlorites and shall not be used after its strength has been reduced to 50 ppm; or (c) sterilized by any other chemical method approved by the State Health Officer.

Chlorine solutions once used shall not be reused for bacteriacidal treatment on any succeeding day.

Where chlorine treatment is used, a three-compartment vat shall be required, the first compartment to be used for washing, the second for plain rinsing, and the third for chlorine immersion; provided that for existing installations the second or rinsing compartment may be omitted if a satisfactory rinsing or spraying device is substituted. Upon removal from the hot water or chlorine solution, all glasses, dishes, silverware, and other receptacles and utensils shall be stored in such a manner as not to become contaminated. When paper receptacles, ice cream cones, or other single service utensils are used for serving food or drinks, they must be kept in a sanitary manner, protected from dust, flies and other contamination. Provided that the provisions of this Section shall not apply to such establishments as described herein which use electrically operated dishwashing and glass-washing machines that accomplish these purposes mechanically. As amended Acts 1951, 52nd Leg., p. 647, ch. 378, § 1.

Emergency. Effective June 2, 1951.

Section 2 of the amendatory Act of 1951 repealed conflicting laws or parts of laws.

Art. 705b—1. Perpetual care

It shall be unlawful for any person, firm, association, corporation, or municipality, or any officer, agent, or employee thereof, to sell, offer for sale, or advertise any cemetery plot or the exclusive right of sepulture therein under the representation that such plot is under perpetual care, before a perpetual care fund as provided for by law has been established for the cemetery in which such property so sold, offered for sale, or advertised is situated; or to engage in or transact any of the businesses of a cemetery within this State other than by means of a corporation organized for such purpose, except as otherwise provided by law; or to fail or refuse to comply with the requirements of the law as to the filing of a statement concerning the perpetual care fund with the Banking Commissioner of Texas or to fail or refuse to publish said statement as provided by law, or to fail or refuse to post the notice with reference to perpetual care required by law, or to invest perpetual care funds otherwise than as provided by law; or to fail or refuse to keep the records of interment required by law; or to sell or offer for sale or advertise for sale cemetery lots or the exclusive right of sepulture therein for purposes of speculation or investment; or to represent through advertising or printed matter that a retail department will later be established for the resale of cemetery lot purchasers that specific improvements will be made in the cemetery or that specific merchandise or service will be furnished the lot owner, unless adequate funds or reserves have been created by the operator of the cemetery for each such purpose; or for any officer, agent, or employee of any cemetery or cemetery association, to pay or offer to pay any commission, rebate, or gratuity to any funeral director or employee

thereof, or for any cemetery association or any officer or employee thereof to offer a free lot or lots either in a drawing or lottery or in any other way except for actual immediate burial of indigent persons. Any person, firm or corporation violating any of the provisions of this Section shall be guilty of misdemeanor and on conviction thereof shall be fined not more than Five Hundred Dollars (\$500) or, if a person, imprisoned not exceeding six (6) months in a county jail, or punished by both such fine and imprisonment. Any corporation organized for cemetery purposes which shall violate the provisions of this Act¹ shall unless such violation is corrected within ninety (90) days after notice of such violation served upon it by the Attorney General of this State, thereby forfeit its charter and right to do business in this State; and when such violation shall be brought to the attention of the Attorney General of this State it shall be his duty to serve such notice, and, after the expiration of ninety (90) days without correction of such violation, to institute suit or quo warranto proceedings in any county in this State where such violation might occur, in the District Court of such county, for the forfeiture of the charter of such offending corporation and the dissolution of its corporate existence; and for such purposes venue is hereby conferred upon the District Courts in this State. As amended Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.

¹ This article and Vernon's Ann.Civ.St. arts. 912a—1 to 912a—27.

Emergency. Effective May 18, 1951.

Art. 705c. Sanitary employees; physical examination and health certificate required of employees handling or dispensing food or drink

Examination for tuberculosis

Sec. 3a. The Commissioners Courts of counties in the State of Texas are hereby authorized to require an examination of any applicant for a public health certificate to ascertain whether said applicant is infected with tuberculosis, when in the opinion of said courts the incidence of tuberculosis in the county is such as to require such examination; provided that any such requirement established by order of any Commissioners Court shall have the approval of the governing body of any incorporated city within the county before the same applies to said city; provided further that no such order of the Commissioners Court shall be effective until written notice of such order is given to all qualified parties issuing public health certificates in said county. Added Acts 1951, 52nd Leg., p. 302, ch. 179, § 1.

Emergency. Effective May 16, 1951.

Section 2 of the amendatory Act of 1951, provided that if any portion of this Act is held unconstitutional by a court of competent jurisdiction the remaining provisions

hereof shall nevertheless be valid the same as if the unconstitutional portion had not been adopted by the Legislature.

CHAPTER TWO—UNWHOLESOME FOOD, DRINK OR MEDICINE

Art. 709. Preservatives added; regulations by State Board of Health

No person shall manufacture, sell, offer or expose for sale or exchange any article of food to which has been added formaldehyde, boric acid or borates, benzoic acid or benzoate, sulphurous acids or sulphites, salicylic acid or salicylates, abrostol, beta naphthol, fluorine compounds, dulcin, glucin, cocaine, sulphuric acid or other mineral acid except diluted phosphoric acid, any preparation of lead or copper or other ingredients injurious to health; provided, however, that organic salicylates used for flavoring, such as methyl salicylate, oil of betula lenta or oil of gaultheria

procumbens shall not be prohibited; and further provided that the addition of sulphur dioxide to tree-ripened natural lime or lemon juices, which juices are unprocessed by either heat, cold, cooking, freezing, dilution, reconstitution or concentration shall not be prohibited if said sulphur dioxide does not exceed one-thirtieth (1/30) of one per cent (1%) of the total weight of said unprocessed natural lime or lemon juice. Nothing herein shall be construed as prohibiting the sale of foods or drinks preserved with one-tenth (1/10) of one per cent (1%) of benzoate of soda, or the equivalent benzoic acid, when a statement of such fact is plainly indicated on the label.

The State Board of Health is hereby authorized, for the protection of the public health, to promulgate regulations limiting the quantity of any other bleaching, clarifying or refining agents, that may be used for bleaching, clarifying or refining fruits, vegetables and other foods. As amended Acts 1951, 52nd Leg., p. 22, ch. 15, § 1.

Emergency. Effective March 10, 1951.

CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art.
726c. Handling, sale and distribution of
barbiturates [New].

Art. 726c. Handling, sale and distribution of barbiturates

Finding and Declaration of Policy

Section 1. The Legislature of the State of Texas hereby finds that it is essential to the public health and safety to regulate and control the handling, sale, and distribution of barbiturates, as defined in this Act.

It is, therefore, hereby declared to be the policy and intent of the Legislature of the State of Texas and the purpose of this Act to regulate and control such handling, sale, and distribution, and, in particular, but without limitation of such purpose, to insure that the public shall receive the therapeutic benefits of barbiturates under medical supervision to the full extent required to assure safety and efficiency in their use; to complement and supplement the laws and regulations of the Congress of the United States and the appropriate agencies of the Federal Government affecting such handling, sale, and distribution; to prevent such handling, sale, or distribution for harmful or illegitimate purposes; and to place upon manufacturers, wholesalers, licensed compounders of prescriptions, and persons prescribing such drugs, a basic responsibility for preventing the improper distribution of such drugs to the extent that such drugs are produced, handled, sold, or prescribed by them.

Definitions

Sec. 2. For the purposes of this Act:

(a) The term "barbiturate" means the salts and derivatives of barbituric acid, also known as malonyl urea, having hypnotic or somnifacient action, and compounds, preparations and mixtures thereof.

(b) The term "delivery" means sale, dispensing, giving away, or supplying in any other manner.

(c) The term "patient" means, as the case may be: (1) the individual for whom a barbiturate is prescribed or to whom a barbiturate is administered; or (2) the owner or the agent of the owner of the animal for which a barbiturate is prescribed or to which a barbiturate is administered.

(d) The term "person" includes individual, corporation, partnership, and association.

(e) The term "practitioner" means a person licensed by the State Board of Medical Examiners, State Board of Dental Examiners, State Board of Chiropody Examiners, and State Board of Veterinary Medical Examiners to prescribe and administer barbiturates.

(f) The term "pharmacist" means a person duly registered with the State Board of Pharmacy as a compounder, dispenser, and supplier of drugs upon prescription.

(g) The term "prescription" means a written order, and in cases of emergency, a telephonic order, by a practitioner to a pharmacist for a barbiturate for a particular patient, which specifies the date of its issue, the name and address of such practitioner, the name and address of the patient (and, if such barbiturate is prescribed for an animal, the species of such animal), the name and quantity of the barbiturate prescribed, the directions for use of such drug, and the signature of such practitioner.

(h) The term "manufacturer" means persons other than pharmacists who manufacture barbiturates, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, tabletting, or other process.

(i) The term "wholesaler" means persons engaged in the business of distributing barbiturates to persons included in any of the classes named in subdivisions (1) to (6) inclusive of Section 5.

(j) The term "warehouseman" means persons who store barbiturates for others and who have no control over the disposition of such barbiturates except for the purpose of such storage.

(k) The term "Board" means Texas State Board of Pharmacy.

Prohibited Acts

Sec. 3. The following acts, the failure to act as hereinafter set forth, and the causing of any such act or failure are hereby declared unlawful except as provided in Section 4:

(a) The delivery of any barbiturate unless:

(1) Such barbiturate is delivered by a pharmacist, upon an original prescription, and there is affixed to the immediate container in which such drug is delivered a label bearing (A) the name and address of the owner of the establishment from which such drug was delivered; (B) the date on which the prescription for such drug was filled; (C) the number of such prescription as filed in the prescription files of the pharmacist who filled such prescription; (D) the name of the practitioner who prescribed such drug; (E) the name and address of the patient, and if such drug was prescribed for an animal, a statement showing the species of the animal; and (F) the directions for use of the drug as contained in the prescription; or

(2) Such barbiturate is delivered by a practitioner in the course of his practice and the immediate container in which such drug is delivered bears a label on which appear the directions for use of such drug, the name and address of such practitioner, the name and address of the patient, and, if such drug is prescribed for an animal, a statement showing the species of the animal.

(b) The refilling of any prescription for a barbiturate unless and as designated on the prescription by the practitioner.

(c) The delivery of a barbiturate upon prescription unless the pharmacist who filled such prescription files and retains it as required in Section 6.

(d) The failure by a practitioner who gives a prescription to a pharmacist by telephone to furnish such prescription to such pharmacist in writing within seventy-two (72) hours thereafter.

(e) The possession of a barbiturate by any person unless such person obtained the drug under the specific provision of Section 3a (1) and (2) of this Act and possesses the drug in the container in which it was delivered to him by the pharmacist or practitioner selling or dispensing the same; and any other possession of a barbiturate shall be prima facie evidence of illegal possession.

(f) The refusal to make available and to accord full opportunity to check any record or file as required by Section 6.

(g) The failure to keep records as required by paragraph (a) or (b) of Section 6.

(h) The using of any person to his own advantage, or revealing, other than to an officer or employee of the State Board of Pharmacy or to a court when relevant in a judicial proceeding under this Act, any information required under the authority of Section 6, concerning any method or process which as a trade secret is entitled to protection.

Applications

Sec. 4. Nothing in this Act shall apply to a compound, mixture, or preparation containing salts or derivatives of barbituric acid which is sold in good faith for the purpose for which it is intended and not for the purpose of evading the provisions of this Act if:

(a) Such compound, mixture, or preparation contains a sufficient quantity of another drug or drugs, in addition to such salts or derivatives, to cause it to produce an action other than its hypnotic or somnifacient action; or

(b) Such compound, mixture, or preparation is intended for use as a spray or gargle or for external application and contains, in addition to such salts or derivatives, some other drug or drugs rendering it unfit for internal administration.

Exempted Practices

Sec. 5. The provisions of paragraphs (a) and (e) of Section 3 shall not be applicable: (a) to the delivery of barbiturates to persons included in any of the classes hereinafter named, or to the agents or employees of such persons, for use in the usual course of their business or practice or in the performance of their official duties, as the case may be; or (b) to the possession of barbiturates by such persons or their agents or employees for such use:

(1) Pharmacists;

(2) Practitioners;

(3) Persons who procure barbiturates (A) for disposition by or under the supervision of pharmacists or practitioners employed by them; or (B) for the purpose of lawful research, teaching, or testing, and not for resale;

(4) Hospitals and other institutions which procure barbiturates for lawful administration by practitioners;

(5) Officers or employees of Federal, State, or local Government;

(6) Manufacturers and Wholesalers;

(7) Carriers and Warehousemen.

Records

Sec. 6. (a) Persons (other than carriers) to whom the provisions of Section 5 are applicable shall: (1) make a complete record of all stocks of barbiturates on hand on the effective date of this Act and retain

such record for not less than two (2) calendar years immediately following such date; and (2) retain each commercial or other record relating to barbiturates maintained by them in the usual course of their business or occupation, for not less than two (2) calendar years immediately following the date of such record.

(b) Pharmacists shall, in addition to complying with the provisions of subsection (a), retain each prescription for a barbiturate received by them for not less than two (2) calendar years immediately following the date of the filling or the date of the last refilling of such prescription, whichever is the later date.

Inspections, Examinations

Sec. 7. Persons required to keep files or records relating to barbiturates by Section 6 shall, upon the written request of an officer or employee duly designated by the State Board of Pharmacy: (1) make such files or records available to such officer or employee, at all reasonable hours, for inspection and copying; and (2) accord to such officer or employee full opportunity to check the correctness of such files or records, including opportunity to make inventory of all stocks of barbiturates on hand; and it shall be unlawful for any such person to fail to make such files or records available or to accord such opportunity to check their correctness.

Amphetamine and desoxyephedrine

Sec. 8. All provisions of this Act shall also apply to amphetamine and desoxyephedrine, or any compound, manufacture mixture, or preparation thereof, except those preparations intended for nasal or other external use.

Seizures and confiscation

Sec. 9. All barbiturates as herein defined, manufactured, sold or had in possession contrary to any provision hereof shall be and the same are declared to be contraband and shall be subject to seizure and confiscation by any officer or employee of the Board or by any peace officer who is authorized to and charged with the duty of enforcing the provisions of this Act.

Injunction

Sec. 10. 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 an injunction shall be in addition to any other action, proceedings or remedy authorized by law.

Legal counsel

Sec. 10a. Any legal proceedings instituted under the provisions of this Act by the Board shall be by any county attorney, district attorney or the Attorney General. The Board is hereby specifically prohibited from employing private counsel in any legal proceedings instituted by or against said Board under the provisions of this Act.

Accomplice testimony

Sec. 11. Upon a trial for a violation of any of the provisions of this Act a conviction may be had upon the uncorroborated testimony of an accomplice.

Negating exceptions; burden of proof

Sec. 12. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provisions of this Act, it shall not be necessary to negative any exception, excuse, proviso, or exemption contained in this Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be upon the defendant.

Penalties

Sec. 13. Any person, firm or corporation violating any of the provisions of this Act, shall be fined not to exceed One Thousand (\$1,000.00) Dollars, or confined in jail for a period of not less than thirty (30) days nor more than two (2) years, or both such fine and imprisonment. For any second or succeeding offense of this Act, any person so violating the same shall be confined in the penitentiary not less than two (2) years, nor more than five (5) years.

Severability Clause

Sec. 14. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby. Acts 1951, 52nd Leg., p. 758, ch. 413.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act regulating the possession, handling, sale and distribution of barbiturates, amphetamine, and desoxyephedrine, or any compound, manufactured mixture, or preparation thereof, except those preparations

intended for nasal or other external uses; providing penalties for violations of this Act; providing for injunctions against defendants convicted of violations of this Act; and declaring an emergency. Acts 1951, 52nd Leg., p. 758, ch. 413.

CHAPTER FOUR—BARBER SHOPS AND BEAUTY PARLORS

Art. 734a. Texas Barber Law

Annual renewal of certificates; fee; restoration of expired certificates

Sec. 20. Every registered barber and every registered assistant barber, who continues in active practice or service, shall annually on or before the first day of November of each year, renew his certificate of registration which shall be issued by the Board of Barber Examiners upon the payment of a renewal fee of Five Dollars (\$5). Every certificate of registration which has not been renewed prior to that date shall expire on the first day of November of that year. A registered barber or a registered assistant barber, whose certificate of registration has expired, may, within thirty (30) days thereafter, and not later, have his certificate of registration restored upon making a satisfactory showing to the Board, supported by his personal affidavit, which, in the opinion of the Board, will excuse the applicant for having failed to renew his certificate within the time required by this Act. Any registered barber who retires from the practice of barbering for not more than five (5) years may renew his certificate of registration by making proper showing to the Board, supported by his personal affidavit, which in the opinion of the Board would justify the Board in issuing a certificate to such applicant as upon an original application upon payment of a fee of Ten Dollars (\$10) when filing affidavit as fee for making examination. Provided, however, that any registered barber who retires from the practice of barbering for more than five (5) years may renew his certificate of registration by making application to the Board and by making proper showing to the Board, supported by his personal affidavit, and by paying a fee of Ten Dollars (\$10) and by passing a satisfactory examination conducted by the Board. As amended Acts 1951, 52nd Leg., p. 449, ch. 276, § 1a.

Renewal while in armed forces

Sec. 20a. Any registered barber or registered assistant barber shall not be required to renew his certificate of registration while serving on active duty in the military, air or naval forces of the United States, and the Board shall issue a renewal certificate upon application and payment of a renewal fee of Five Dollars (\$5) within ninety (90) days from the date such registered barber or registered assistant barber is released or discharged from active duty in the armed forces. Added Acts 1951, 52nd Leg., p. 449, ch. 276, § 1.

State Board of Barber Examiners; appointment and term

Sec. 26. A Board to be known as the State Board of Barber Examiners is hereby created and shall consist of three (3) members to be appointed by the Governor upon the taking effect of this Act. Each member of said Board shall be a practical barber who has followed the occupation of a barber of this State for at least five (5) years immediately prior to his appointment. The members of the first Board appointed under this Act shall serve for six (6) years, four (4) years, and two (2) years, respectively, as appointed, and members appointed thereafter shall serve for six (6) years. The Governor may remove any member of the Board for cause. All members appointed by the Governor to fill vacancies in the Board caused by death, resignation, or removal shall serve during the unexpired term of his predecessor. As amended Acts 1951, 52nd Leg., p. 449, ch. 276, § 2.

Emergency. Effective May 19, 1951.

Sections 3 and 4 of the amendatory Act of 1951, read as follows:

"Sec. 3. If any portion of this Act is held unconstitutional by a court of competent jurisdiction the remaining portions shall nevertheless be valid the same as if

the invalid portion had not been a part hereof.

"Sec. 4. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict."

CHAPTER FIVE—OPTOMETRY**Article 735. Optometry**

The practice of optometry is defined to be the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer or prescribe any drug or physical treatment whatsoever, unless such optometrist is a regular licensed physician or surgeon under the laws of this State. No person shall practice optometry within this State who has not registered in the County Clerk's office of the county in which he resides, and in each county in which he practices, his license for so practicing, together with his age, post-office address, place of birth, subscribed and verified by his oath. The fact of such oath and record shall be endorsed by the County Clerk upon the license. The absence of record of such license in the County Clerk's office shall be prima-facie evidence of the lack of possession of such license. As amended Acts 1951, 52nd Leg., p. 350, ch. 221, § 5.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER SEVEN—DENTISTRY

Art. 752c. Licenses, refusing, revoking, cancelling, and suspending of

Revocation, cancellation, or suspension of license

Sec. 4. The State Board of Dental Examiners shall, and it shall be their duty, and they are hereby authorized to revoke, cancel or suspend any license or licenses that may have been issued by such Board, if in the opinion of a majority of such Board, any person or persons to whom a license has been issued by said Board to practice dentistry in this State, shall have, after the issuance of such license, violated any of the provisions of the Statutes of the State of Texas relating to the practice of dentistry in this State, or any of the provisions of Chapter 7, Title 12 of the Penal Code of the State of Texas, or any amendments that may hereafter be made thereto. All revocations, cancellations or suspensions of licenses by the Texas State Board of Dental Examiners shall be made as hereinafter provided.

All complaints to be considered by the Board shall be made in writing, subscribed and sworn to by the person presenting such complaint, which complaint shall set out the alleged violations of such Statutes and Penal Code and declaring it to be the opinion of the person presenting such complaint that the person or persons so accused have so violated said Statutes or Penal Code.

All complaints as received shall be presented to the Secretary of the Board or an authorized employee of the Board who shall cause copies of all complaints to be made and mailed or delivered to each member of the Board. When a complaint is made by a member of the Board, its agents or employees, the Secretary of the Board shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes or Penal Code. When a complaint is made by others than the members of the Board, its agents or employees, the Board or its duly authorized representative shall cause an investigation of such complaint to be made to determine the facts in such case, and if the facts as determined by such investigation, in the discretion of the Secretary of the Board, justify the docketing of such complaint for hearing before the Board, then the Secretary of the Board shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes or Penal Code.

The Secretary of the Board or its authorized officer or employee shall not less than ten (10) days prior to the next meeting of the Board called for the purpose of hearing and considering such complaint, mail by registered mail to the last known address of such person or persons against whom a complaint has been so docketed a notice of hearing, which notice shall contain the date, time, and place of the meeting of the Texas State Board of Dental Examiners called to consider such complaint, and such notice shall contain the alleged violations of such Statutes and Penal Code, and shall state that such accused person may appear and offer such evidence as is pertinent to his defense to such complaint. Such hearing shall be governed by such rules and regulations as may be prescribed by the Board, and the Board shall have the authority to subpoena and compel the attendance of such licensees or other persons deemed to have

knowledge which would aid the Board in reaching a proper decision and for the enforcement of this Act. After such hearing, the Board shall enter an order in its minutes, as in the opinion of the majority of the Board the facts brought out at such hearing justify and require. Provided, however, that any order cancelling or revoking or suspending such license or licenses shall be signed by a majority of such Board and by all the members of such Board present at such hearing. Provided that when the license of such licensee is revoked or cancelled he shall be allowed to continue the practice of his profession pending appeal upon his giving a supersedeas bond in such amount as shall be set by the District Court, conditioned to faithfully observe the law. As amended Acts 1951, 52nd Leg., p. 427, ch. 267, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 9 of the amendatory Act of 1951 repealed conflicting laws or parts of laws.

Art. 753. Exceptions

Nothing in this Chapter applies to: (1) members of the faculty of a reputable dental college or school where such faculty members perform their services for the sole benefit of such school or college; or to (2) 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; or to (3) 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 of, 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 1951, 52nd Leg., p. 427, ch. 267, § 3.

Effective 90 days after June 8, 1951, date of adjournment.

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 who shall offer or undertake in any manner to prescribe or make, or cause to be made, an impression of any portion of the

human mouth, teeth, gums, or jaws, for the purpose of diagnosing, prescribing, treating, or aiding in the diagnosing, prescribing or treating, any physical condition of the human mouth, teeth, gums or jaws, or for the purpose of constructing or aiding in the construction of any dental appliance, denture, dental bridge, false teeth, dental plate or plates of false teeth, or any other substitute for human teeth.

(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 1951, 52nd Leg., p. 427, ch. 267, § 6.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 754b. Accomplice testimony sufficient to sustain conviction.

Upon a trial or hearing for the violation of any of the Articles or provisions of the Penal Code or Civil Statutes of Texas, or any additions or amendments thereto, pertaining to dentistry, the uncorroborated testimony of an accomplice shall be sufficient to support and sustain a conviction. As amended Acts 1951, 52nd Leg., p. 427, ch. 267, § 4.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER ELEVEN—MISCELLANEOUS

Art. 778. Chiropody—Chiropodist

Any person shall be regarded as practicing chiropody within the meaning of this law, and shall be deemed and construed to be a chiropodist, who shall treat or offer to treat any disease or disorder, physical injury or deformity, or ailment of the human foot by any system or method and charge therefor, directly or indirectly, money or other compensation, or who shall publicly profess or claim to be a chiropodist, podiatrist, pedicurist, foot specialist, doctor or use any title, degree, letter, syllable, word or words that would tend to lead the public to believe such person was a practitioner authorized to practice or assume the duties incident to the practice of chiropody. Whoever professes to be a chiropodist, practices or assumes the duties incident to the practice of chiropody within the meaning of this law or Article, without first obtaining from the Texas State Board of Chiropody Examiners a license authorizing such person to practice chiropody, shall be punished by a fine of not less than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail of not less than thirty (30) days, nor more than six (6) months, or by both fine and imprisonment. Whoever shall employ, agree to employ, pay or promise to pay, any person, persons, firm, partnership or corporation for securing, soliciting or drumming patients for a chiropodist, shall be subject to the penalties provided for in this Article, and whoever shall pay, agree to pay, accept a fee or reward or any compensation directly or indirectly from firms, persons or a person, corporation, partnership or company, shall be subject to the penalties provided for in this Article and each payment, reward or fee shall constitute a separate offense. As amended Acts 1951, 52nd Leg., p. 219, ch. 132, § 7.

Emergency. Effective May 3, 1951.

Art. 778a. Name under which one may practice

It shall be unlawful for any person or persons to practice chiropody in this State under the name of a corporation, company, association, joint stock company or partnership or trade name or under any name other than his own practice name which shall be the name in his license as issued by the State Board of Chiropody Examiners. Any person violating this provision shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment for each offense. Each day of violation of this Article shall constitute a separate offense. As amended Acts 1951, 52nd Leg., p. 219, ch. 132, § 8.

Art. 779. Improper practice

If any licensed chiropodist shall amputate the human foot, he shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months or by both such fine and imprisonment for each offense. As amended Acts 1951, 52nd Leg., p. 219, ch. 132, § 9.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY**CHAPTER ONE—HIGHWAYS AND VEHICLES**

Art.
802d. Reckless driving or driving while intoxicated by minors between ages of 14 and 17 [New].

Art.
827a—1. Gross weight of vehicle or combination of vehicles [New].

Art. 802b. Subsequent offense of driving while intoxicated; felony

Any person who has been convicted of the misdemeanor offense of driving or operating an automobile or other motor vehicle upon any public road or highway in this state, or upon any street or alley within an incorporated city, town or village, while intoxicated or under the influence of intoxicating liquor, and who shall thereafter drive or operate an automobile or other motor vehicle upon any public road or highway in this state, or upon any street or alley within the limits of an incorporated city, town or village, while such person is intoxicated or under the influence of intoxicating liquor, shall for each and every subsequent such violation be guilty of a felony; and upon conviction shall be punished by a fine of not less than One Hundred (\$100.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars or confinement in the county jail not less than ten (10) days nor more than two (2) years, or by both such fine and imprisonment, or by confinement in the state penitentiary not to exceed five (5) years. As amended Acts 1951, 52nd Leg., p. 813, ch. 457, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 802d. Reckless driving or driving while intoxicated by minors between ages of 14 and 17

Section 1. Any minor who has reached his or her fourteenth (14th) birthday but has not reached his or her seventeenth (17th) birthday and who drives or operates an automobile or any other motor vehicle upon any public road or highway in this State, or upon any street or alley with-

in the limits of an incorporated city, town or village, in a reckless manner, at an excessive rate of speed, or while under the influence of intoxicating liquors, as hereinafter defined in this Act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Dollar (\$1) nor more than Fifty Dollars (\$50).

Sec. 2. (a) Any minor who drives any vehicle in willful or wanton disregard of the rights or safety of others or without due caution or circumspection, and at a speed or in a manner so as to endanger or be likely to endanger a person or property shall be guilty of reckless driving.

(b) Any minor who operates a motor vehicle at a speed in excess of the maximum speed allowable under existing law shall be guilty of speeding.

(c) Any minor who drives or operates an automobile or any other vehicle while such person is intoxicated or under the influence of intoxicating liquors shall be guilty of driving or operating a motor vehicle while under the influence of intoxicating liquors.

Sec. 3. Provided that for good cause shown, and when it shall appear to the satisfaction of the court that the ends of justice and the best interest of the public as well as the defendant will be subserved thereby, the courts of the State of Texas having original jurisdiction of such criminal actions shall have the power after conviction or plea of guilty to suspend the imposition of such fine and may place the defendant on probation for a period of ninety (90) days.

Any such minor placed on probation shall be under the supervision of such court.

Sec. 4. Nothing contained in this Act shall be construed to repeal or affect any other Statutes regulating the powers and duties of Juvenile Courts; the provisions of this Act shall be cumulative with all other Acts on this subject.

Sec. 5. If any clause, sentence, section or portion of this Act shall be held invalid or unconstitutional, such holding shall not affect the remaining clauses, sections, or portions of this Act, and the Legislature declares it would have enacted the remaining portions with the invalid or unconstitutional portions omitted. Acts 1951, 52nd Leg., p. 786, ch. 436.

Emergency. Effective June 15, 1951.

Title of Act:

An Act making it unlawful for minors between the ages of fourteen (14) and seventeen (17) years of age to drive or operate an automobile or any other motor vehicle in a reckless manner, at an excessive rate of speed, or while under the influence of intoxicating liquors; defining such offenses; providing a penalty for violation thereof;

providing for power of suspension of fine and for probationary period; providing for supervision by court; providing nothing in the Act shall be construed to repeal or affect any Statute regulating powers and duties of Juvenile Courts; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 786, ch. 436.

Art. 827a. Regulating operation of vehicles on highways

Weight of load

Sec. 5. Except as otherwise provided by law, no commercial motor vehicle, truck-tractor, trailer or semi-trailer, nor combination of such vehicles, shall be operated over, on, or upon the public highways outside the limits of an incorporated city or town, where the total weight on a single axle or any group of axles exceeds the weight limitations adopted April 1, 1946, by the "American Association of State Highway Officials," set forth below in subsections (a) and (b):

(a) Permissible Loads—No axle shall carry a load in excess of eighteen thousand (18,000) pounds.

(An axle load shall be defined as the total load transmitted to the road by all wheels whose centers may be included between two parallel

transverse vertical planes forty (40) inches apart, extending across the full width of the vehicle.)

(b) No group of axles shall carry a load in pounds in excess of the value given in the following table corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot:

"Distance in feet between the ex- tremes of any group of axles	Maximum load in pounds carried on any group of ax- les
4 -----	32,000
5 -----	32,000
6 -----	32,000
7 -----	32,000
8 -----	32,610
9 -----	33,580
10 -----	34,550

"Distance in feet between the ex- tremes of any group of axles	Maximum load in pounds carried on any group of ax- les
11 -----	35,510
12 -----	36,470
13 -----	37,420
14 -----	38,360
15 -----	39,300
16 -----	40,230
17 -----	41,160
18 -----	42,080
19 -----	42,990
20 -----	43,900
21 -----	44,800
22 -----	45,700
23 -----	46,590
24 -----	47,470
25 -----	48,350
26 -----	49,220
27 -----	50,090
28 -----	50,950
29 -----	51,800
30 -----	52,650
31 -----	53,490
32 -----	54,330
33 -----	55,160
34 -----	55,980
35 -----	56,800
36 -----	57,610
37 -----	58,420
38 -----	58,420
39 -----	58,420
40 -----	58,420
41 -----	58,420

The weights set forth in column two of the above table shall constitute the maximum permissible gross weight for any such vehicle or combination of such vehicles.

(c) Provided, however, the gross weight permitted by the foregoing table shall be subject to the following restrictions and limitations:

No such vehicle nor combination of vehicles shall have a greater weight than six hundred (600) pounds per inch width of tire upon any wheel concentrated upon the surface of the highway and using high-pressure tires, and a greater weight than six hundred and fifty (650) pounds per inch width of tire upon any wheel concentrated upon the surface of the highway and using low-pressure tires, and no wheel shall carry a load in excess of eight thousand (8,000) pounds on high-pressure tires and nine thousand (9,000) pounds on low-pressure tires, nor any axle a load in excess of sixteen thousand (16,000) pounds on high-pressure tires, and eighteen thousand (18,000) pounds on low-pressure tires. The total gross weight concentrated on the highway surface from any tandem axle group shall not exceed thirty-two thousand (32,000) pounds for each such tandem axle group. Tandem axle group is defined to be two or more axles spaced forty (40) inches or more apart from center to center having at least one common point of weight suspension.

"Provided, however, vehicles used exclusively to transport ready-mix cement for the next two (2) years after the effective date of this Act may be operated with a tandem axle load of thirty-six thousand (36,000) pounds if the owner of such vehicle shall first file with the State Highway Department a surety bond in the principal sum of not to exceed Ten Thousand (\$10,000.00) Dollars for each such vehicle; said bond to be conditioned that the owner of such vehicle will pay to the State of Texas, within the limits of such bond, all damages done to the highways by reason of the operation of such vehicle with a tandem axle load of thirty-six thousand (36,000) pounds; such bond shall be in an amount to be fixed by the State Highway Department and shall be subject to the approval of the State Highway Department; but if for any reason this exception is unconstitutional or invalid, it is the intention of the Legislature to enact and it does here now enact and pass this Act without such exception; and if it be invalid, such exception alone shall fall and be held for naught, and the remainder of the Act shall be and remain unimpaired, and it is so enacted. As amended Acts 1951, 52nd Leg., p. 248, ch. 146, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 1½ of the amendatory Act of 1951 read as follows:

"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.

"The Legislature hereby declares that it would have passed and does pass 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."

**Art. 827a, sec. 5½. Farm-to-Market and Ranch-to-Market roads—
 Highway commission to fix loads**

Sec. 5-1/2. The State Highway Commission shall have the power and authority upon the basis of an engineering and traffic investigation to determine and fix the maximum gross weight of vehicle, or combination thereof, and load, as well as the maximum axle and wheel loads, to be transported or moved on, over or upon any road that has been classified by the Highway Commission and shown by the records of the Commission as a Farm-to-Market or Ranch-to-Market Road under the jurisdiction of the State Highway Commission, at less than the maximums hereinbefore fixed by law, taking into consideration the width, condition and type of pavement structures and other circumstances on such road. Whenever the State Highway Commission shall determine and fix the maximum

gross weight of vehicle, or combination thereof, and load or maximum axle and wheel loads, which may be transported or moved on, over or upon any Farm-to-Market or Ranch-to-Market Road at a less weight than the respective maximums hereinbefore set forth in this Act and shall declare such maximums by proper order of the Commission entered on its minutes, such gross weight of vehicle, or combination thereof, and load and maximum axles and wheel loads shall become effective and operative on said highways when appropriate signs giving notice thereof are erected under the order of the Commission on such Farm-to-Market or Ranch-to-Market Roads.

Provided, however, that this section shall not apply to vehicles making deliveries of groceries or farm products to destinations requiring travel over such roads; but if for any reason this exception is unconstitutional or invalid, it is the intention of the Legislature to enact, and it does here and now enact and pass, this Act without such exception; and if it be invalid, such exception alone shall fall and be held for naught, and the remainder of the Act shall be and remain unimpaired, and it is so enacted. Added Acts 1951, 52nd Leg., p. 248, ch. 146, § 1¼.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 827a, sec. 6. Weighing loaded vehicles by inspectors; gifts, etc., to enforcement officers

Sec. 6. Subdivision 1. Any license and weight inspector of the Department of Public Safety, any highway patrolman or any sheriff or his duly authorized deputy, having reason to believe that the gross weight or axle load of a loaded motor vehicle is unlawful, is authorized to weigh the same by means of portable or stationary scales furnished or approved by the Department of Public Safety, or cause the same to be weighed by any public weigher, and to require that such vehicle be driven to the nearest available scales for the purpose of weighing. In the event the gross weight of such vehicle be found to exceed the maximum gross weight authorized by law, plus a tolerance allowance of five per cent (5%) of the gross weight authorized by law, such license and weight inspector, highway patrolman, sheriff or his duly authorized deputy, shall demand and require the operator or owner of such motor vehicle to unload such portion of the load as may be necessary to decrease the gross weight of such vehicle to the maximum authorized by law plus such tolerance allowance. Such operator or owner shall forthwith unload such vehicle to the extent necessary to reduce the gross weight thereof to such lawful maximum and such vehicle may not be operated further over the public highways or roads of the State of Texas until the gross weight of such vehicle has been reduced to a weight not in excess of the maximum limit plus such tolerance allowance. In the event the axle load of any such vehicle be found to exceed the maximum authorized by law, plus a tolerance allowance of five per cent (5%) of the axle load authorized by law, such officer shall demand and require the operator or owner thereof to rearrange his cargo, if possible, to bring such vehicle and load within the maximum axle load authorized by law, and if this cannot be done by rearrangement of said cargo, then such portion of the load as may be necessary to decrease the axle load to the maximum authorized by law plus such tolerance allowance shall be unloaded before such vehicle may be operated further over the public highways or roads of the State of Texas. Provided, however, that if such load consists of livestock, then such operator shall be permitted to proceed to destination without being weighed, provided destination be within the State of Texas.

Subdivision 2. Any combination of commercial motor vehicles not exceeding forty-five (45) feet in length consisting of a truck tractor and tank semitrailer, the semitrailer of which is used for the transportation of liquids in bulk, which were registered with the State Highway Department to operate over the public highways of Texas during the calendar year of 1950 and in 1951 prior to March 31, 1951, are exempted from the unloading provisions of this Act for a period of six (6) months from the effective date of this Act, provided no single axle shall carry a load in excess of eighteen thousand (18,000) pounds and no tandem axle shall carry a load in excess of thirty-two thousand (32,000) pounds.

Subdivision 3. The officers named herein are the only officers authorized to enforce the provisions of this Act.

Subdivision 4 (a). It shall be unlawful for any of the persons, officers or deputies authorized to enforce the weighing and unloading provisions of this Act, to accept or agree to accept any gift, emolument, money or thing of value, privilege or the promise of either, from any person, firm, corporation, association, partnership, or the officers, agents, servants, or employees thereof as an inducement to enforce or attempt to enforce the weighing and unloading provisions of this Act. Any person who violates the provisions of this Section shall be guilty of a felony and upon conviction shall be punished as provided in Article 159, Penal Code of Texas.

Subdivision 4 (b). It shall be unlawful for any person, firm, corporation, association, partnership, or the officers, agents, servants or employees thereof, to give, or offer to give or promise to give to any of the persons, officers or deputies authorized to enforce the weighing and unloading provisions of this Act, any gift, emolument, money or thing of value, privilege, or the promise of either, as an inducement to enforce or attempt to enforce the weighing and unloading provisions of this Act. Any person who violates the provisions of this Section shall be guilty of a felony and upon conviction shall be punished as provided in Article 158, Penal Code of Texas.

Provided, however, if a corporation shall be convicted of a violation of any of the provisions of this Section the penalty shall be a fine of not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000) for each such offense.

Subdivision 4 (c). The inhibitions in Subdivisions 4 (a) and 4 (b) above shall not apply to the regular compensation paid to such persons or officers by the State or a county of this State. As amended Acts 1951, 52nd Leg., p. 189, ch. 116, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the amendatory Act of 1951 repealed all conflicting laws and parts of laws, Section 3 provided that if any portion, provision, section, sentence, clause or phrase of this Act, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or invalid (or for any reason unenforceable), the validity of the remaining portions of this Act or their

application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Legislature of the State of Texas in adopting this Act, that no portion thereof or provision or sentence, clause or phrase contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, sentence, clause or phrase, and to this end all provisions of this Act are declared to be severable.

Art. 827a, sec. 8. Rate and speed of vehicles

Sec. 8. Subsection 1. Speed restrictions. (a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions then existing, having regard to the actual and potential hazards when approaching and crossing an intersection or a railway grade crossing, when approaching and going around a curve, when ap-

proaching a hill crest, when traveling upon any narrow or winding roadway, or when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions; and in every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with subsection 1(a) of this Section, the speed of any vehicle not in excess of the limits specified in this subsection or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this subsection or established as hereinafter authorized shall be prima-facie evidence that the speed is not reasonable or prudent and that it is unlawful:

(1) Thirty (30) miles per hour in any business or residence district for all vehicles.

(2) Sixty (60) miles per hour during the daytime and fifty-five (55) miles per hour during the nighttime in locations other than business or residence districts for all vehicles except commercial motor vehicles, truck-tractors, trailers, or semi-trailers as defined in this Act and all motor vehicles engaged in this State in the business of transporting passengers for compensation or hire.

(3) Forty-five (45) miles per hour at all hours in locations other than business or residence districts for commercial motor vehicles, truck-tractors, trailers, or semitrailers as defined in this Act.

(4) Fifty-five (55) miles per hour at all hours in locations other than business or residence districts for any motor vehicle engaged in this State in the business of transporting passengers for compensation or hire.

"Daytime" as used in this Act shall mean from a half hour before sunrise to a half hour after sunset. "Nighttime" means at any other hour.

"Business District" means the territory contiguous to and including a roadway when within any six hundred (600) feet along such roadway there are buildings in use for business or industrial purposes which occupy three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the roadway.

"Residence District" means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.

The prima-facie speed limits set forth in this subsection may be altered as authorized in Subsection 2 and 3.

Subsection 2. Authority of State Highway Commission to alter prima-facie speed limits. (a) Whenever the State Highway Commission shall determine upon the basis of an engineering and traffic investigation that any prima-facie speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, taking into consideration the width and condition of the pavement and other circumstances on such portion of said highway, as well as the usual traffic thereon, said State Highway Commission may determine and declare a reasonable and safe prima-facie speed limit thereat or thereon by proper order of the Commission entered on its Minutes, which shall be effective at all times or during hours of daylight or darkness, or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or other place or part of the highway, except that said State Highway Commission shall not have the authority to modify or alter

the basic rule set forth in subsection 1 (a) nor to authorize by a Commission Minute speeds for any class of vehicle in excess of the maximum values hereinbefore set forth for said class of vehicle in subsection 1(b), paragraphs (2), (3), and (4).

(b) The authority of the State Highway Commission to alter prima-facie speed limits shall be restricted to highways, roads, or streets officially designated by the State Highway Commission as a part of the State Highway System and which are not within the limits of an incorporated city or town.

Subsection 3. Authority of County Commissioners Courts and governing bodies of incorporated cities and towns to alter prima-facie speed limits. (a) The County Commissioners Court of any county with respect to county highways or roads outside the limits of right-of-way of any officially designated highway, road, or street of the State Highway System and outside the limits of an incorporated city or town shall have the same authority by Order of the County Commissioners Court entered upon its records to alter prima-facie speed limits upon the basis of an engineering and traffic investigation as that delegated to the State Highway Commission with respect to any officially designated highway, road, or street of the State Highway System.

(b) The Governing Body of any incorporated city or town with respect to any highway, street, or part of a highway or street, including those marked as a route of a highway of the State Highway System, within its corporate limits, shall have the same authority by City Ordinance to alter prima-facie speed limits upon the basis of an engineering and traffic investigation as that delegated to the State Highway Commission with respect to any officially designated highway, road, or street of the State Highway System.

Subsection 4. Minimum speed regulation. It shall be unlawful for any person to so operate or drive any motor or other vehicle upon the public highways, roads, or streets of this State so as to wilfully obstruct or impede the normal, reasonable, and safe movement of traffic. Police officers are hereby authorized to enforce the foregoing provision by directions to drivers, and a wilful disobedience to this provision shall be in violation of law punishable as provided in this Act.

Subsection 5. Charging violations. Every charge of a violation of any speed regulation provided for in this Act, also the summons or notice to appear in answer to such charge, shall specify the rate of speed at which the person so charged is alleged to have driven, also the prima-facie speed limit applicable within the district or at the location shall be set out.

Subsection 6. Rule in civil actions. The provisions of this Act declaring prima-facie speed limits shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of any accident. As amended Acts 1951, 52nd Leg., p. 589, ch. 346, § 1.

Emergency. Effective June 2, 1951.

Section 2 of the amendatory Act of 1951 read as follows: "If any portion of this Act is held unconstitutional by a court of competent jurisdiction, the remaining provisions hereof shall nevertheless be valid

the same as if the portion or portions held unconstitutional had not been adopted by the Legislature."

Section 3 repealed any part of any law in conflict with the Act.

Art. 827a—1. Gross weight of vehicle or combination of vehicles

No commercial motor vehicle, truck-tractor, trailer or semi-trailer, nor combination of such vehicles, shall be operated over, on or upon the public highways outside the limits of an incorporated city or

town, where the total gross weight of such vehicle or combination thereof including the load thereon, exceeds fifty-eight thousand, four hundred twenty (58,420) pounds; except such vehicles, or combinations thereof, operated under special permits otherwise authorized by law; and nothing in this Senate Bill No. 57 shall in anywise alter, amend or repeal any law of this state authorizing or providing for such permits. Acts 1951, 52nd Leg., p. 248, ch. 146, § 2.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER SIX—GAME, FISH AND OYSTERS

Art.

879f—6. Prairie chickens; hunting, killing or possessing prohibited; certain counties excepted [New].

895b. Hunting licenses; necessity, form, etc.; offenses; disposition of revenues [New].

Art.

934c. Menhaden fishing in salt waters of Gulf of Mexico [New].

978f—3. Game and Fish Commission [New].

Article 871. "Commissioner"

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f—3.

Art. 879f—6. Prairie chickens; hunting, killing or possessing prohibited; certain counties excepted

Section 1. It shall be unlawful for any person to hunt, take or kill, or to possess any prairie chicken in the State of Texas.

Sec. 2. Any person 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 Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100), and shall automatically forfeit his hunting license and right to purchase a hunting license, and his right to hunt in this State for a period of one (1) year from date of conviction. Each prairie chicken taken, killed or possessed in violation of this Act shall constitute a separate offense, and shall be seized and disposed of as provided in Article 897, Penal Code, 1925.

Sec. 3. The provisions of this Act shall not apply to the counties of Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher and Wheeler, to which counties the provisions of Senate Bill No. 47, Acts, 1950, First Called Session, Fifty-first Legislature,¹ apply. Acts 1951, 52nd Leg., p. 588, ch. 345.

¹ Article 978n—1.

Emergency. Effective June 2, 1951.

Section 4 of the Act of 1951 repealed conflicting laws or parts of laws.

Title of Act:

An Act fixing closed season on prairie

chicken; providing penalty; excepting certain counties; and containing repealing and emergency clauses. Acts 1951, 52nd Leg., p. 588, ch. 345.

Art. 881b. Open season and bag limit for migratory game birds; regulations

Game, Fish and Oyster Commission abolished and powers, duties and functions

transferred to Game and Fish Commission, see art. 978f—3.

Arts. 888, 888a, 890

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f—3.

Art. 895. County clerk to issue license

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f—3.

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f—3.

Art. 895b. Hunting licenses; necessity, form, etc.; offenses; disposition of revenues

Resident Hunting License

Section 1. No citizen of this State shall hunt outside of the county of his residence with a gun without first having procured from the Game, Fish and Oyster Commission, or one of its authorized agents, a license to hunt, and for which he shall pay the sum of Two Dollars and Fifteen Cents (\$2.15); Fifteen Cents (15¢) of which amount shall be retained by the issuing officer as his fee for collecting.

Nonresident Hunting License

Sec. 2. No nonresident citizen of this State or alien shall hunt with a gun in this State without first having procured from the Game, Fish and Oyster Commission, or one of its authorized agents, a nonresident hunting license. The fee for a nonresident citizen or alien hunting license shall be Twenty-five Dollars (\$25); Three Dollars (\$3) of such amount shall be retained by the officer issuing such license as his fee for collecting, issuing, and making report on license so issued and for remitting the remaining Twenty-two Dollars (\$22) to the Game, Fish and Oyster Commission.

Exception

Sec. 3. It shall be unlawful for any citizen of this State to hunt, take or kill any deer or wild turkey in this State without first having procured from the Game, Fish and Oyster Commission, or one of its authorized agents, or from any county clerk in this State, a hunting license.

Form of License

Sec. 4. It shall be unlawful for any person to issue or accept any license required by the provisions of this Act, except on a form provided by the Game, Fish and Oyster Commission. Each license issued under the provisions of this Act shall be accompanied by the number of deer tags equal to the number of deer permitted to be killed during the deer season fixed by law for the year for which such hunting license is issued. Each deer tag shall bear the serial number of the license which it accompanies. Each license and each deer tag shall bear the name, address and residence of the person to whom issued, and the license shall give the approximate weight, height, age, color of hair and eyes of such person, in order that proper identification may be had in the field. Each license and deer tag shall be dated on the date of issuance, and shall have printed across its face the year for which it is issued; and such license shall expire on the last day of August thereafter. Each license and each deer tag shall be signed by the licensee at the time such license is received by him.

Duplicate License

Sec. 5. It shall be unlawful for any person to procure or possess more than one hunting license during a license year. Provided, however, in the event the holder of a license provided for in this Act shall have lost such license, or same shall have become destroyed, such license holder may file with the Game, Fish and Oyster Commission or its authorized agent an application in the form of an affidavit as to the facts of such loss or destruction, which affidavit shall contain a statement as to the number of deer, if any, said applicant has killed under such lost or destroyed license; whereupon said Commission or its authorized agent may issue to such person a duplicate hunting license, the fee for which shall be Fifty Cents (50¢), without exception; provided, however, that such issuing officer shall remove a deer tag from such duplicate license for each deer previously killed by such applicant.

False Swearing

Sec. 6. Any person who, in making an affidavit as provided for in this Act, shall knowingly make a false affidavit of fact shall be deemed guilty of false swearing and shall be punished in accordance with the provisions of Article 310, Penal Code, State of Texas.

Deer Tag

Sec. 7. It shall be unlawful for any person to have in his possession at any time the carcass of any wild deer that does not have attached thereto a tag issued to such person under the provisions of this Act, bearing the date and place of kill of the deer to which it is attached. Such deer tag shall remain on said deer carcass while on storage and until such carcass is finally processed or destroyed. It shall be unlawful for any person to use more deer tags during one license year than are originally attached to his hunting license for that year. It shall be unlawful for any person to use the same deer tag on more than one (1) deer. It shall be unlawful for any person to use a deer tag which was not issued to such person. Nothing in this Act shall be construed to authorize any person to exceed any bag limit or to hunt deer during closed season provided for deer; and the fact that a deer tag was attached to the carcass or hide of any deer shall not be prima-facie evidence that such deer was lawfully killed.

Disposition of Fees and Fines

Sec. 8. The method of collecting, recording, reporting and remitting the fees derived from sale of licenses provided for herein shall be the same as that provided by law for resident fishing licenses; and all moneys received by the Game, Fish and Oyster Commission from sale of hunting licenses as well as moneys collected from violations of this Act, shall be deposited in the State Treasury to the credit of the Special Game and Fish Fund and used for the purposes provided by law.

Exemption

Sec. 9. No citizen of this State under seventeen (17) years of age shall be required to pay the fee prescribed for the license provided for in this Act; nor shall any citizen be required to pay said fee before taking, killing or hunting on land on which he is residing. Provided, however, that any person exempted by this Section, before hunting deer or wild turkey, shall first register with the Game, Fish and Oyster Commission or one of its authorized agents, on a form to be furnished by said Commission, and receive from said Commission a hunting license which shall be

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

in the form and signed by such exempted licensee as prescribed herein for licenses for which a fee is charged; but in addition thereto, such exemption license shall clearly show on its face that it is an exemption license.

Hunting under License of Another

Sec. 10. Any person who shall hunt under the license issued to another person, or any person who shall permit another person to hunt under a license issued to him, shall be guilty of a violation of this Act.

Exhibiting License

Sec. 11. Any person required to hold a hunting license under the provisions of this Act, who fails or refuses, on demand by any officer, to show such officer his hunting license, shall be deemed guilty of a violation of this Act.

Penalty

Sec. 14. Any person who shall violate 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 Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Acts 1951, 52nd Leg., p. 124, ch. 77.

Section 12 of the Act of 1951 makes the Act effective on Sept. 1, 1951. Section 13 repealed all conflicting laws and parts of laws.

Arts. 896-898

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Art. 899. Hunting under the license of another

Hunting under another's license, see, also, art. 895b.

Art. 903. Boat owner to have license

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Art. 904. Hunting with gun; license for

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f-3.

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Arts. 905-907

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Arts. 908, 911

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f-3.

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Art. 912. Clerk and justice of the peace to remit fines

Section 1. It shall be the duty of any justice of the peace, clerk of any court, or any other officer of this State, receiving any fine or penalty imposed by any court for violation of any of the laws of this State per-

taining to the protection and conservation of wild birds, wild fowl, wild animals, fish, oysters and other wild life, Acts, 1943, Regular Session, Forty-eighth Legislature, General and Special Laws, page 418, Chapter 285, as amended by Acts, 1945, Regular Session, Forty-ninth Legislature, General and Special Laws, page 373, Chapter 240¹, and any other law of this State which it is now or may hereafter be the duty of the Game, Fish and Oyster Commission to enforce, after the deduction of the fees allowed by law, to remit said fine or penalty, within ten (10) days from and after collection of same, to the Game, Fish and Oyster Commission or one (1) of its bona fide employees, giving docket number of case, name of person fined, and Section or Article of the law under which conviction was secured. In justice court cases the amount to be remitted to said Commission shall be eighty-five per cent (85%) of such fines and penalties; in county court cases the amount to be remitted to said Commission shall be eighty per cent (80%) of such fines and penalties.

Sec. 2. It is the intention of the Legislature that fees as provided for in Articles 950 and 951, Code of Criminal Procedure, 1925, shall be deducted from all fines and penalties imposed for violations of said laws and that the balance shall be deposited in the State Treasury by said Commission to the credit of the Special Game and Fish Fund for use as provided by law. As amended Acts 1951, 52nd Leg., p. 359, ch. 225, § 1.

¹ Article 698b, § 5.

Emergency. Effective May 17, 1951.

Section 2 of the amendatory Act of 1951 repealed conflicting laws or parts of laws.

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f-3.

Arts. 913, 914, 915a, 917-919

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Art. 923b-1. Brown pelican; permit to kill required

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f-3.

Art. 923d. Refusing to stop vehicle for search

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Art. 923h. Sale or purchase of game; sale by taxidermists or tanners of unclaimed heads or hides

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f-3.

Art. 923o. Trapping license; commissioner to provide forms

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Arts. 923q, 923qa.

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f-3.

Art. 923qa-1. Trapping fur bearing animals in certain counties

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Arts. 923qa—5, 923qa—7

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f—3.

Arts. 923qq, 923v

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f—3.

Art. 928a. Fresh water fish sanctuaries

Arts. 928a, 934a

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f—3.

Art. 934b—2. Commercial fishing in tidal waters

Menhaden fishing in salt waters of Gulf of Mexico, licenses for, see art. 934c.

Art. 934c. Menhaden fishing in salt waters of Gulf of Mexico

Legislative declaration

Section 1. The Legislature of the State of Texas hereby declares that it is to the best interest of the people of the State that the taking and catching of menhaden fish from the salt waters of the Gulf of Mexico should be fostered, encouraged, and regulated to the end that the benefits of such fishery may be enjoyed and protected. This Act shall, to that end, be liberally construed and interpreted.

Fishing prohibited except as provided

Sec. 2. Except as otherwise provided in this Act, it shall be unlawful for any person to take menhaden fish from the tidal salt waters of the State of Texas for the purpose of sale, barter or exchange.

Commercial fisherman's license

Sec. 3. Before any person shall take, catch or assist in taking or catching menhaden fish from the tidal salt waters of this State, a Commercial Fisherman's License under the applicable provisions of the law shall be first obtained from the Game, Fish and Oyster Commission of Texas, authorizing such person to engage in the vocation of Commercial Fisherman.

Commercial fishing boat license

Sec. 4. Before any boat or vessel shall be used for the purpose of taking menhaden fish from the tidal salt waters of this State, a Commercial Fishing Boat License under the applicable provisions of the law shall be first obtained by the owner of such boat or vessel from the Game, Fish and Oyster Commission of Texas; provided, however, that the fee for such license be One Hundred Dollars (\$100) per boat per year.

Area within which fishing permitted; season; nets and seines

Sec. 5. Menhaden fish may be taken from the waters of the Gulf of Mexico within the gulfward boundary lines of Jefferson, Jackson, Calhoun, Refugio, Aransas and San Patricio Counties from the coast line of the Gulf of Mexico to the continental shelf compiled, platted, fixed and located by the Commissioner of the General Land Office pursuant to Senate Bill 338, Chapter 287, Acts of the Fiftieth Legislature, 1947,¹ and filed and recorded in the office of the County Clerk of Jefferson, Jackson, Calhoun, Refugio, Aransas or San Patricio Counties, between April 1st

and December 1st of each year through the use of nets and purse seines which, not including the bag, shall be not less than one and one half inch (1 1/2") stretched mesh; provided, however that no such nets and purse seines may be used in any bay, river, pass or tributary thereto, nor within one (1) mile of any barrier, jetty, island, or pass, nor within one half (1/2) mile off shore in the Gulf of Mexico; provided, further, that no such net shall be used in the taking of menhaden fish until it shall have been examined and tagged in accordance with the provisions of Article 946 of the Penal Code of Texas.

¹ Article 1592a.

Taking for sale, barter or exchange

Sec. 6. The purse seine net or seine prescribed in Section 5 of this Act shall never be used for the purpose of taking edible aquatic products for the purpose of barter, sale, or exchange. No person taking menhaden fish from the tidal salt waters of the State under the provisions of this Act shall sell, barter, or exchange any edible aquatic products so taken in said purse seine net and the possession by any such person of edible aquatic fish in excess of five per cent (5%) by volume of menhaden fish then in the possession of such person shall constitute a prima facie violation of the provisions of this Act.

Menhaden fish plants

Sec. 6a. (a) Any person, firm, corporation or association of persons desiring to operate a menhaden fish plant in this State shall first obtain a permit from the Game, Fish and Oyster Commission. Applicants for permits shall furnish the Commission a certified copy of an order of the Commissioners Court of the County in which the plant is proposed to be located which order shall describe the plant and the location thereof and indicate the approval of the court for the construction and operation of same; provided, that the decision of the Commissioners Court in approving or disapproving the construction of a plant shall be final and shall not be reviewable in any court by any party dissatisfied with the action of the court. Applications for permits shall be upon forms prescribed by the Commission and the Commission is authorized to require such information in support of applications as it may deem necessary. Applications shall be accompanied by a filing fee of Twenty-five Dollars (\$25) and all such fees shall be retained by the Commission to pay the cost of the administration of this section.

(b) The Commission shall set for hearing all applications within a reasonable time after the filing thereof and shall give notice of hearing on each application at least twenty (20) days prior to the date of hearing to the county judge of the county in which the plant is proposed to be located and to all known interested parties. If the Commission shall determine, pursuant to notice and hearing, that the granting of the permit and the operation of the proposed plant is in the public interest, the Commission shall issue a permit to the applicant. All permits issued by the Commission shall be renewed annually and the renewal fee shall be Twenty-five Dollars (\$25).

(c) Any menhaden fish plant in existence and bona fide operation within this State on the 31st day of August, 1950, may apply to the Commission for a permit and shall not be required to furnish a certified copy of an order of the Commissioners Court approving the construction and operation of the plant.

(d) For the purposes of this Act a "menhaden fish plant" means a fixed installation upon land designed, equipped and used to process fish and the by-products thereof by the application of pressure, heat and chemicals or a combination thereof to raw fish whereby the same are converted into fish oil, fish solubles, fish scraps or other products.

Violations; punishment

Sec. 7. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and upon first conviction thereof shall be fined not less than Twenty Dollars (\$20) nor more than One Hundred Dollars (\$100) and shall have his license suspended for a period of not less than seven (7) nor more than thirty (30) days, at the discretion of the Game, Fish and Oyster Commission of Texas; upon second conviction thereof shall be fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) and shall have his license revoked and shall not be eligible for a new license for a period of six (6) months after the date of such conviction.

Cumulative character; repeals

Sec. 8. The provisions of this Act shall be cumulative of all other laws upon the subject but to the extent of any conflict between this Act and any other laws, such other laws are hereby repealed.

Partial unconstitutionality

Sec. 9. If any section or part whatsoever of this Act shall be held to be unconstitutional or invalid, 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 1951, 52nd Leg., p. 19, ch. 14.

Emergency. Effective March 10, 1951.

Arts. 935, 937a, 941, 941a

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f—3.

Arts. 943, 945a, 946, 948, 950, 951a

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f—3.

Art. 952/—11. Shrimp; classification of fish; taking nongame fish

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f—3.

Arts. 954, 959—961, 963, 964, 967, 969, 971, 975, 976, 978a, 978c

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f—3.

Art. 978f. Game, Fish, and Oyster Commission; powers and duties

The title of Acts 1951, ch. 476, recites the repeal of this article as one of the purposes of the act, but the act contained no specific repeal. It is probably repealed by the repeal of conflicting laws.

Game, Fish and Oyster Commission abolished and powers, duties and functions transferred to Game and Fish Commission, see art. 978f—3.

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f—3.

Arts. 978f—1, 978f—2

Game, Fish and Oyster Commission abolished and powers, duties and functions

transferred to Game and Fish Commission, see art. 978f—3.

Art. 978f—3. Game and Fish Commission**Game, Fish and Oyster Commission abolished and powers, duties and functions transferred**

Section 1. The office of Game, Fish and Oyster Commission is hereby abolished. There is hereby created the Game and Fish Commission, which shall have the authority, powers, duties and functions heretofore vested in the Game, Fish and Oyster Commission, and the Game, Fish and Oyster Commissioner, except where in conflict with this Act.

Members of commission

Sec. 2. Said Game and Fish Commission shall consist of nine members, one of whom shall be designated Chairman. The members of the Commission shall be appointed by the Governor from different sections of the State, which appointments shall be with the advice and consent of the Senate, if in session, and if not in session, the Governor shall appoint such members and issue a commission to them as provided by law, and their appointment shall be submitted to the next session of the Senate for their advice and consent in the manner that appointments to fill vacancies under the Constitution are submitted to the Senate. The Chairman and all members of the Game, Fish and Oyster Commission shall continue to serve in their same capacities as Chairman and members of the Game and Fish Commission until their present terms of office expire, and until their successors are appointed and qualified. The Governor shall appoint three additional members of the Game and Fish Commission, one whose term shall expire September 1, 1953, one whose term shall expire September 1, 1955, and one whose term shall expire September 1, 1957, or until their successors are appointed and qualified. Thereafter the Governor shall appoint members for terms of six years. Each member of said Commission shall execute a bond payable to the State of Texas, in the sum of Five Thousand (\$5,000.00) Dollars, to be approved by the Governor and conditioned upon the faithful performance of his duties under the law. The premium on such bonds shall be paid by the State of Texas out of funds available to said Game and Fish Commission under the law and appropriations made by the Legislature.

Meetings; quorum

Sec. 3. Said Game and Fish Commission shall hold regular quarterly meetings in January, April, July and October of each year on dates to be specified by the Commission and may hold such special meetings at such times and places as said Commission may deem necessary and proper. It shall require six members or the Chairman and five members to constitute a quorum.

Rules and regulations; chairman; record

Sec. 4. Said Game and Fish Commission is hereby authorized to make such rules and regulations for the conduct of its work and the work of the Game and Fish Commission as may be deemed necessary, not inconsistent with the Constitution and laws of this State. After the expiration of the term of office of the Chairman provided for in Section 2 of this Act, the Game and Fish Commission shall, by two-thirds vote of its members, elect one member as Chairman, who shall serve under such rules as may be fixed by said Commission. Said Game and Fish Commission shall keep a record of all proceedings and official acts.

Expenses

Sec. 5. The Chairman and members of said Commission shall receive as compensation for their services their actual expenses in the performance of their duties. The expense of the Chairman and members shall

be itemized and sworn to by said Chairman or member receiving the same, and shall be paid out on warrants of the Comptroller drawn against any funds available for the use of said Game and Fish Commission.

Executive secretary, assistant executive secretary and other personnel

Sec. 6. Said Game and Fish Commission shall have power and authority to appoint an executive secretary who shall act as the chief executive officer under the direction of said Game and Fish Commission. The Commission may perform its duties through said executive secretary and may delegate to him such executive duties as said Game and Fish Commission shall deem proper. They shall also have power and authority to appoint an assistant executive secretary who, in the absence of the executive secretary, shall perform all the duties of the executive secretary and shall perform such other duties as may be prescribed by the Game and Fish Commission or under its direction. Said executive secretary shall have authority to appoint such heads of divisions and such game and fish wardens and other employees as in his discretion may be deemed necessary to carry out and enforce the laws of this State, which it is the duty of said Game and Fish Commission to carry out, execute and administer, and to perform all other duties and services authorized and required to be performed by said Game and Fish Commission. Said executive secretary and assistant executive secretary shall serve at the will of said Game and Fish Commission. The division heads, game and fish wardens and other employees shall serve at the will of the executive secretary.

Compensation of personnel

Sec. 7. The executive secretary and the assistant executive secretary shall each receive such compensation as may be fixed by the Legislature in each biennial appropriation bill, to be paid to them in twelve equal monthly installments, out of any funds available to, or appropriated for the use of the Game and Fish Commission, together with all the necessary expenses in connection with their official duties. The compensation of all division heads, game and fish wardens and other employees of the Game and Fish Commission, herein provided for, shall be fixed by the Game and Fish Commission; provided that the Legislature in each biennial appropriation bill shall fix the maximum compensation to be paid to such division heads, game wardens and other employees.

Official bonds and oaths

Sec. 8. The executive secretary and assistant executive secretary shall each enter into a good and sufficient bond in the sum of Ten Thousand (\$10,000.00) Dollars payable to the State of Texas, to be approved by the Game and Fish Commission conditioned upon the faithful performance of his duties under the law. The premium on such bonds shall be paid by the State out of funds available to the Game and Fish Commission. The executive secretary and assistant executive secretary shall take the constitutional oath of office. Every division head, game and fish warden and such other of the employees as the Commission may designate shall execute a bond in the sum of One Thousand (\$1,000.00) Dollars to be approved by the executive secretary of the Game and Fish Commission, and payable to the State of Texas and conditioned upon the faithful performance of the duties of his office. The Game and Fish Commission may require any employee who handles funds belonging to the Department to give a bond up to as high as Ten Thousand (\$10,000.00) Dollars, conditioned upon the faithful performance of his duties under the law. The Chairman nor the members of the Commission, the executive secretary nor assistant executive secretary shall be liable on their

respective bonds for any act of the employee of the Department but on the other hand the bond of any such employee shall cover the individual acts of each.

Appropriation

Sec. 9. There is hereby appropriated all monies on deposit to the credit of the Special Game and Fish Fund, and all monies to be derived and placed to the credit of said fund for the purpose of carrying out all the duties and functions of the Game and Fish Commission as may be required under any laws of this State, or as heretofore required of the Game, Fish and Oyster Commission. Acts 1951, 52nd Leg., p. 850, ch. 476.

Effective 90 days after June 8, 1951, date of adjournment.

Section 10 of the act of 1951 provided that the act should take effect September 1, 1951. Section 11 read as follows: "If any section or provision of this Act should be declared unconstitutional or invalid for any

reason, it shall not affect any other provision or portion of this Act, and the same shall remain in full force and effect. All laws and parts of laws in conflict herewith are hereby expressly repealed."

Arts. 978h, 978i

Game, Fish and Oyster Commission abolished and powers, duties and functions

transferred to Game and Fish Commission, see art. 978f—3.

Art. 978j. Expired

For fish and game law applicable only to the named counties, see notes under Vernon's Ann.Pen.Code, art. 978j.

Arts. 978k, 978l—2 to 978l—4

Game, Fish and Oyster Commission abolished and powers, duties and functions

transferred to Game and Fish Commission, see art. 978f—3.

Art. 978l—5. Lake Texoma fishing licenses

Fees

Sec. 4. The fee for a Lake Texoma Fishing License shall be Two Dollars and Fifty Cents (\$2.50); Fifteen Cents (15¢) of this amount may be retained by the issuing officer as his fee for issuing same. The fee for a Lake Texoma ten-day Fishing License shall be One Dollar and Twenty-five Cents (\$1.25); Fifteen Cents (15¢) of which may be retained by the issuing officer as his fee for issuing same. The remainder of the fees so collected, for either a Lake Texoma Fishing License or a Lake Texoma ten-day Fishing License shall be remitted to the Game, Fish and Oyster Commission, at its office in Austin, Texas, not later than the 10th day of the month following date of issuance, and shall be deposited by said Commission in the State Treasury to the credit of the Special Game and Fish Fund. As amended Acts 1951, 52nd Leg., p. 382, ch. 245, § 1.

Section 2 of the amendatory Act of 1951 repealed all conflicting laws and parts of laws.

Art. 978n. Game management unit for benefit of Texas Bighorn Mountain Sheep

Game, Fish and Oyster Commission abolished and powers, duties and functions

transferred to Game and Fish Commission, see art. 978f—3.

TITLE 14—TRADE AND COMMERCE**CHAPTER EIGHT—BLUE SKY LAW OF TEXAS****Art. 1083a. Unlawful sale of securities**

Any dealer, agent, salesman, principal officer, or employee, who shall, within this State, sell, offer for sale or delivery, solicit subscriptions to or orders for, dispose of, invite offers for, or who shall deal in any other manner in any security or securities, without being registered as in this Act provided, or who shall within this State, sell, offer for sale or delivery, solicit subscriptions to and orders for, dispose of, invite orders for, or who shall deal in any other manner in any security or securities issued after the effective date of this Act without having secured a permit as herein provided, or who knowingly sells or offers for sale any security or securities named or listed in a notice in writing given him by the Secretary of State that, in the opinion of the Secretary of State, the further sale or offer of sale of the security or securities named or listed in such notice would not be in compliance with this Act or would tend to work a fraud on any purchaser thereof or that the plan of business of the issuer of such security or securities is not fair, just and equitable, or who knowingly makes any false statement of fact in any statement or matter of information required by this Act to be filed with the Secretary of State, or in any advertisement, prospectus, letter, telegram, circular, or any other document containing an offer to sell or dispose of, or in or by verbal or written solicitation to purchase, or in any commendatory matter concerning any securities, with intent to aid in the disposal or purchase of the same, or who knowingly makes any false statement or representation concerning any registration made under the provisions of this Act, or who is guilty of any fraud or fraudulent practice in the sale of, offering for sale or delivery of, invitation of offers for, or dealing in any other manner in any security or securities, or who shall knowingly participate in declaring, issuing or paying any cash dividend by or for any person or company out of any funds other than the actual earnings of such person or company or from the lawful liquidation of the business thereof, shall be deemed guilty of a felony, and upon conviction thereof, shall be sentenced to pay a fine of not more than One Thousand (\$1000.00) Dollars, or imprisoned in the penitentiary for not more than two (2) years, or by both such fine and imprisonment. As amended Acts 1951, 52nd Leg., p. 624, ch. 370, § 4.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER ELEVEN—GASOLINE AND PETROLEUM PRODUCTS**Art. 1106. Inferior motor fuel; drip gasoline**

(c) No person, firm, association of persons or corporation shall sell at retail, or offer for sale at retail, as gasoline or motor fuel to propel motor vehicles upon the roads, streets and highways of Texas, either alone or when blended with other products, any unrefined liquid, substance or residuum of natural gas formed in and extracted or expelled in its natural state from any pipe line or tank conveying or containing natural gas, unless the said liquid, substance or residuum sold at retail or offered for sale at retail in its unrefined state is labelled as "Drip Gasoline," and all pumps, receptacles, tanks or containers of any retail service station through which such drip gasoline may be sold

or offered for sale to propel motor vehicles upon the roads, streets and highways of Texas, either alone or when blended with other products, shall be labelled in plain, legible lettering in full view of the public, with letters of solid black type not less than two (2) inches in height and one half ($\frac{1}{2}$) inch in width with the words "Drip Gasoline." Provided that nothing herein shall be construed as requiring the labelling of any derivative of natural gas which has been refined into an appropriate blending material free of dirt, oil and other suspended matter. Added Acts 1951, 52nd Leg., p. 148, ch. 88, § 1.

Emergency. Effective April 30, 1951.

Sections 2 and 3 of the amendatory Act of 1951, read as follows:

"Sec. 2. All laws or parts of laws that conflict herewith are, in so far as such conflicts exist, hereby repealed and this Act shall prevail over any conflicting provision of law.

"Sec. 3. If any paragraph, sentence, clause or phrase of this Act, or the applica-

tion thereof to any person or circumstances, 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, and to this end the provisions of this Act are declared to be severable."

CHAPTER ELEVEN—A—STORES AND MERCANTILE ESTABLISHMENTS

Art. 1111d. Operating stores or mercantile establishments without license unlawful

Application for license to Comptroller of Public Accounts

Sec. 2. (a) Any person, agent, receiver, trustee, firm, corporation, association or copartnership desiring to operate, maintain, open or establish a store or mercantile establishment in this State shall apply to the Comptroller of Public Accounts for a license so to do. The application for a license shall be made on a form which shall be prescribed and furnished by the Comptroller of Public Accounts and shall set forth the name of the owner, manager, trustee, lessee, receiver, or other person desiring such license, the name of such store or mercantile establishment, the location, including the street number of such store, or mercantile establishment, and such other facts and information as the Comptroller of Public Accounts may require. If the applicant desires to operate, maintain, open or establish more than one such store or mercantile establishment, such applicant shall make application for a license to operate, maintain, open or establish each such store or mercantile establishment, but the respective stores or mercantile establishments for which the applicant desires to secure licenses may all be listed on one application blank.

(b) It is hereby made the further duty of the Comptroller to collect, supervise, and enforce the collection of all license and application fees that may be due under the provisions of this Act and to that end the said Comptroller is hereby vested with all of the power and authority conferred by this Act. The Comptroller is further authorized and empowered to promulgate rules and regulations to provide for the collection of the amount of license and application fees due under the provisions of this Act and on the effective date of this Act.

The Comptroller is hereby directed to determine the true ownership of any store or stores or establishments or departments, regardless of the name or operating name and collect the tax levied herein accordingly.

(c) Each application shall be accompanied by a filing fee of One Dollar (\$1) for each store or mercantile establishment operated or to be operated for the purpose of defraying the cost of the administration of

this Act and the same is hereby appropriated. This application shall be mailed to the Comptroller and accompanying the application and the application fee shall be the amount of license due under the provisions of this Act. Those applications not mailed and which require the visit of a member of the Comptroller's staff for the collection of the application fee or the license fee shall pay a service fee of Five Dollars (\$5) for each store.

(d) Each application shall be signed and sworn to by the applicant as being true and correct, before an officer authorized to administer oaths, and may contain such other information as the applicant may wish to include, or as the Comptroller may require. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XVI (§ 1).

Period of license and renewal

Sec. 4. All licenses shall be so issued as to expire on the thirty-first day of December of each year. On or before the thirty-first day of December of each year every person, agent, receiver, trustee, firm, corporation, association, or copartnership having a license shall apply to the Comptroller of Public Accounts for a renewal license for the calendar year next ensuing. All applications for renewal licenses shall be made on forms which shall be prescribed and furnished by the Comptroller of Public Accounts. Each such application for a renewal license shall be accompanied by a filing fee of One Dollar (\$1) for each store or mercantile establishment operated or to be operated and by the license fee as prescribed in Section 5 of this Act. This application shall be mailed to the Comptroller and accompanying the application and the application fee, shall be the amount of license due under the provisions of this Act. Those applications not mailed and which require the visit of a member of the Comptroller's staff for the collection of the application fee or the license fee shall pay a service fee of Five Dollars (\$5) for each store. If the application is not received by the due date there shall be an added late fee of Fifty Cents (50¢) on each application and a five per cent (5%) penalty added to the amount of the license fee. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § XVI (§ 3).

License fees; exemptions

Sec. 5. (a) 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. Every person, agent, receiver, trustee, firm, corporation, association and/or copartnership opening, establishing, operating and/or maintaining one or more stores or mercantile establishments within this State under the same general management and/or ownership and selling therein any equipment or appliances operated and/or used in connection with any electrical current and/or natural gas and/or artificial gas whether the same be in connection with the sale of electrical current and/or natural gas and/or artificial gas or not and whether such person, firm, agent, receiver, trustee, corporation, association and/or copartnership be also engaged in the business of furnishing some public utility services or not shall pay the license fees herein prescribed for the privilege of opening, establishing, operating and/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 term 'store, stores, mercantile establish-

ment, and mercantile establishments,' wherever used in this Act shall not include: any place or places where or from which nothing is sold except ice; any wholesale and/or retail lumber and/or building material place of business, provided as much as seventy-five per cent (75%) 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, provided 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 suppliers 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 per cent (75%) of the gross proceeds of the business done thereat is derived from the selling, storing, or distributing of petroleum products; or business now paying an occupation tax measured by gross receipts except as otherwise specified in this Act; 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 exclusive sale at retail of such products; or any place or places of business commonly known as religious bookstores operated for the purpose 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; or any restaurants, sandwich shops and other eating places; or any business operating for the purpose of parking automobiles, parking lots, garages; or any radio station; provided that gas and/or electric utilities shall not hereafter be required to pay any license 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 electrical appliances and/or parts for the repair thereof, provided as much as seventy-five per cent (75%) 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 the 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 electrical utilities shall pay only the fees imposed by Sections 2, 4 and 5 of this Act.

(b) The license fees herein prescribed shall be as follows:

1. Upon one (1) store the license fee shall be Four Dollars (\$4);
2. Upon each additional store in excess of one (1), but not to exceed two (2), the license fee shall be Nine Dollars (\$9);
3. Upon each additional store in excess of two (2), but not to exceed five (5), the license fee shall be Twenty-seven Dollars and Fifty Cents (\$27.50).
4. Upon each additional store in excess of five (5), but not to exceed ten (10), the license fee shall be Fifty-five Dollars (\$55).
5. Upon each additional store in excess of ten (10), but not to exceed twenty (20), the license fee shall be One Hundred and Sixty-five Dollars (\$165).

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

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 Seventy-five Dollars (\$275).

7. Upon each additional store in excess of thirty-five (35), but not to exceed fifty (50), the license fee shall be Five Hundred and Fifty Dollars (\$550).

8. Upon each additional store in excess of fifty (50), the license fee shall be Eight Hundred and Twenty-five Dollars (\$825).

(c) All those establishments, except religious bookstores, exempted from the above schedule by this Act shall file an application as required by Sections 2 and 4 of this Act. If they meet the requirements of this Act for exemption, they shall pay an exemption fee of Four Dollars (\$4) for one store and Nine Dollars (\$9) for each additional store in excess of one.

(d) All fees listed above are for a period of twelve (12) months. Upon the issuance of any license after the first day of January of any one year for the remainder of the 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) bears to the twelve (12) month period. As amended Acts 1951, 52nd Leg., p. 695, ch. 402, § 16(3).

This section was combined with § 5 by the amendatory act of 1951, 51st Leg., p. 695, ch. 402, § XVI (§ 3).

Emergency. Effective Sept. 1, 1951.

TITLE 15—OFFENSES AGAINST THE PERSON

CHAPTER SIXTEEN—MURDER

Art. 1256. 1140, 710, 605 "Murder"

Loss of life by reason of sabotage of property used in connection with national defense, see Vernon's Ann.Civ.St., art. 6889—3.

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER ONE—ARSON

Sabotage of property used in national defense, see Vernon's Ann.Civ.St., art. 6889—3.

CHAPTER TWO—OTHER WILFUL BURNING

Art.

1321a. Woods, forest, cut over, brush, range or grassland [New].

Art.

1321b. Negligent burning of woods, forest, cut over, brush, range or grassland [New].

Art. 1321a. Woods, forest, cut over, brush, range or grassland

Section 1. It shall be unlawful for any person to wilfully set on fire, cause to be set on fire, or attempt to set on fire any woods, forest, cut over, brush, range, or grassland belonging to another, without the consent of or under the direction of the owner, or by any means calculated to effect the object, or attempts to commit any offense enumerated herein.

Sec. 2. Any person who shall violate any provisions of this Act shall be deemed guilty of a felony, and upon conviction shall be fined not less than Three Hundred (\$300.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or confined in a county jail not less than thirty (30) days nor more than six (6) months or confined in the State penitentiary for not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment. Acts 1951, 52nd Leg., p. 537, ch. 315.

Effective 90 days after June 8, 1951, date of adjournment.

Section 3 of the act of 1951 repealed conflicting laws or parts of laws.

Title of Act:

An Act making it unlawful to wilfully set on fire, cause to be set on fire, or attempt to set on fire any woods, forest, cut

over, brush, range, or grassland belonging to another, without the consent of or under the direction of the owner; prescribing a penalty necessary and incident thereto; repealing all laws in conflict herewith; and declaring an emergency. Acts 1951, 52nd Leg., p. 537, ch. 315.

Art. 1321b. Negligent burning of woods, forest, cut over, brush, range or grassland

Section 1. It shall be unlawful for any person to negligently set on fire, or cause to be set on fire any woods, forest, cut over, brush, range, or grassland belonging to another, or to set on fire any woods, forest, cut over, brush, range, or grassland belonging to himself and allowing such fire to spread to the property of another.

Sec. 2. Any person who shall violate any provision of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Fifteen (\$15.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

Sec. 3. Failure to prevent fire from spreading to the property of another shall be prima facie evidence of negligence. Acts 1951, 52nd Leg., p. 821, ch. 466.

Effective 90 days after June 8, 1951, date of adjournment.

Section 4 of the act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act making it unlawful to negligently set on fire, or cause to be set on fire any woods, forest, cut over, brush, range, or

grassland belonging to another, or to set on fire any woods, forest, cut over, brush, range, or grassland belonging to himself and allowing such fire to spread to the property of another; prescribing a penalty necessary and incident thereto; repealing all laws in conflict herewith; and declaring an emergency. Acts 1951, 52nd Leg., p. 821, ch. 466.

CHAPTER THREE—MALICIOUS MISCHIEF

Arts. 1344-1346. Repealed. Acts 1951, 52nd Leg., p. 823, ch. 468, § 2. eff. 90 days after June 8, 1951, date of adjournment

Saving clause, see note to art. 1350.

Art. 1350. 1235, 791, 683 Injury or destruction of property of any kind belonging to another

(1) It shall be unlawful for any person to wilfully injure or destroy, or attempt to injure or destroy, any property belonging to another, of any kind whatsoever, without the consent of the owner and lienholder, if any, thereon.

(2) Whenever the law provides a particular punishment for the wilful injury or destruction by a certain means, such as by burning, or whenever a particular punishment is provided for wilful injury or destruction of a certain type of property, such as fences, the provisions of this Act shall not be applicable.

(3) Whoever shall violate the provisions of Subdivision (1) hereof shall be punished as follows:

(a) When the value of the property destroyed or the extent of the injury inflicted is of the value of Fifty (\$50.00) Dollars, or over, he shall be confined in the penitentiary not less than two (2) nor more than twenty (20) years.

(b) When the value of the property destroyed or the extent of the injury inflicted is under the value of Fifty (\$50.00) Dollars, he shall be fined not exceeding One Thousand (\$1,000.00) Dollars or be confined in the county jail for not more than one (1) year, or be both fined and imprisoned.

(c) If any bodily injury less than death is suffered by any one by reason of the commission of the offense, the punishment may be increased so as not to exceed double that which is prescribed in cases where no such injury is suffered.

(d) Where death is occasioned by the offense, the offender is guilty of murder. As amended Acts 1951, 52nd Leg., p. 823, ch. 468, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the act of 1951 repealed Arts. 1344, 1345 and 1346, and repealed all other conflicting laws or parts of laws to the extent of the conflict only. Sections 3 and 4 read as follows:

"Sec. 3. No offense committed and no fine, forfeiture or penalty incurred under existing laws previous to the time this Act takes effect shall be affected by the repeal herein of any such laws, but the punishment of such offense and the recovery of such fines and forfeitures shall take place as if the law repealed had remained in force, except that when any

penalty, forfeiture or punishment shall have been mitigated by any provision of this Act, such provision shall control any judgment to be pronounced after this Act shall take effect, for any offense committed before that time, unless the defendant elects to be punished under the repealed law.

"Sec. 4. If any provision, paragraph or sentence of this Act shall be for any reason held invalid, such invalidity shall not affect or invalidate the remaining provisions, paragraphs and sentences of this Act; it is declared to be the intention of the Legislature to pass such remaining portions notwithstanding the invalidity of any provision, paragraph or sentence."

Art. 1378a. Interference with traps or stealing traps or trapped animals

Sec. 11. Any person who shall maliciously or wilfully tamper with any of said traps, or any part thereof, or remove the same from the position in which the same was placed by the hunter or trapper, shall be fined not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

Sec. 12. Any person who shall steal or fraudulently take any trap belonging to the State of Texas or United States Department of the Interior shall be deemed guilty of a misdemeanor and shall be fined not less than One Hundred (\$100.00) Dollars and not more than Two Hundred (\$200.00) Dollars.

Sec. 13. Any person who shall steal or take away from any trap any animal mentioned in this Act¹ that may be therein shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred (\$100.00) Dollars and not more than Two Hundred (\$200.00) Dollars; and such animals shall be regarded as the property of the State of Texas and complaints alleging violations shall allege the ownership of the animal in the State of Texas, and the only proof necessary for establishing ownership shall consist in proving that the animal was taken from a trap which had been set by a trapper or hunter authorized by this Act. As amended Acts 1951, 52nd Leg., p. 540, ch. 317, § 1.

¹ This article and Vernon's Ann.Civ.St. art. 192b.

Emergency. Effective June 2, 1951.

CHAPTER FIVE—BURGLARY**Art. 1398. [1315-1316] Burglary by explosives**

Any person who shall commit burglary, as defined in this Chapter, and removes from the premises and opens or attempts to open, or while on the premises opens or attempts to open any safe, vault or other secure place for money or other valuables by use of an acetylene torch or electric arc or nitroglycerin, dynamite, gunpowder or other high explosive, shall be confined in the State penitentiary for any term of years not less than five (5). As amended Acts 1951, 52nd Leg., p. 751, ch. 407, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

CHAPTER SIX—OFFENSES ON VESSELS, STEAMBOATS AND RAILROAD CARS

Art.

1404b. Breaking and entering vehicles
[New].

Art. 1404b. Breaking and entering vehicles

Section 1. Any person who shall, by breaking, enter a vehicle for the purpose of committing a felony or misdemeanor shall be confined in the State penitentiary for not more than three (3) years.

Sec. 2. A "vehicle" is a device in, upon or by which any person or property is or may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

Sec. 3. The breaking of any of the glass vents, glass windows or windshield or locking devices of a vehicle or the insertion of hands or any foreign object through vent wings and opening a locking device shall constitute "breaking and entering." Added Acts 1951, 52nd Leg., p. 447, ch. 273, § 1.

Emergency. Effective May 19, 1951.

CHAPTER EIGHT—THEFT IN GENERAL

Art.

1436c. Engines, motors, pumps and batteries used for irrigation or livestock watering purposes [New].

Art. 1436—1. Motor vehicles; Certificate of Title Act

Sec. 7. The term "First Sale" means the bargain, sale, transfer, or delivery with intent to pass an interest therein, other than a lien, of a motor vehicle which has not been previously registered or licensed in this State or elsewhere; and such a bargain, sale, transfer or delivery, accompanied by registration or licensing of said vehicle in this State or elsewhere, shall constitute the first sale of said vehicle, irrespective of where such bargain, sale, transfer, or delivery occurred. As amended Acts 1951, 52nd Leg., p. 482, ch. 301, § 1.

Sec. 8. The term "Subsequent Sale" means the bargain, sale, transfer, or delivery, with intent to pass an interest therein, other than a lien, of a motor vehicle which has been registered or licensed within this State or elsewhere, save and except when such vehicle is not required under law to be registered or licensed in this State; and any

such bargain, sale, transfer, or delivery of a motor vehicle after same has been registered or licensed shall constitute a subsequent sale, irrespective of where such bargain, sale, transfer, or delivery occurred. As amended Acts 1951, 52nd Leg., p. 482, ch. 301, § 1.

Sec. 9. The term "New Car" means a motor vehicle which has never been the subject of a first sale either within this State or elsewhere. As amended Acts 1951, 52nd Leg., p. 482, ch. 301, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the amendatory act of 1951, provided that if any section, subsection, or clause of this Act is for any reason held to be unconstitutional, such decision shall not thereby affect the validity of any of the remaining portions of this Act, and it is

hereby declared that this Act would have been passed notwithstanding the absence of such portion hereof so declared unconstitutional.

Section 3 repealed conflicting laws or parts of laws to the extent of the conflict.

Sec. 57. Each applicant for a certificate of title or reissuance 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. Twenty (20%) per cent of such twenty-five (25¢) cents shall be set aside as a special salary fund for extra compensation and personal expenses of the designated agent for additional duties required of him by this Act; and from the remainder 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, 1951. 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; provided further, that in counties in which the designated agent is compensated on a fee basis, he shall be entitled to retain, as added compensation, the fund created by the twenty (20%) per cent of the twenty-five (25¢) cents above set aside; and in counties where he is compensated on a salary basis, the Commissioners Court shall fix and allow, as additional salary for the duties required under this Act, a sum annually not less than fifty (50%) per cent and not more than the total of the special salary fund created by setting aside one-fifth ($\frac{1}{5}$) of such twenty-five (25¢) cents fee retained, any excess to be paid into the Road and Bridge Fund of the county. As amended Acts 1951, 52nd Leg., p. 620, ch. 368, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 1436c. Engines, motors, pumps and batteries used for irrigation or livestock watering purposes

Whoever shall steal any internal combustion engine, electric motor, water well pump or battery used for irrigation or livestock watering purposes or any accessorial part, mechanical or electrical, of

any such engine, motor, pump or battery shall be punished by confinement in the penitentiary for not less than one (1) year and not more than two (2) years, or by imprisonment in jail not to exceed one hundred (100) days; or by fine not to exceed Two Hundred Dollars (\$200), or by both such fine and imprisonment in jail. Acts 1951, 52nd Leg., p. 600, ch. 354, § 1.

Emergency. Effective June 2, 1951.

Title of Act:

An Act making it unlawful to steal any internal combustion engine, electric motor, water well pump or battery used for irrigation or livestock watering purposes

or any accessorial part of any such engine, motor, pump or battery; making such offense a felony or a misdemeanor; prescribing punishment therefor; and declaring an emergency. Acts 1951, 52nd Leg., p. 600, ch. 354.

CHAPTER THIRTEEN—PROTECTION OF STOCK RAISERS

Art. 1477. Driving cattle or moving carcasses from Mexico into Texas or from Texas into Mexico

Whoever drives any cattle across the Rio Grande from Mexico into Texas, or from Texas into Mexico, at any other point than where a United States Custom House is maintained, or where there is a place of inspection by United States Custom House officers, or without first having the same inspected in accordance with law; or whoever moves the carcass, or a part of the carcass, of any cow, calf or other animal of the cattle family across the Rio Grande from Mexico into Texas, or from Texas into Mexico, except at one of the above described places, or without first having the same inspected in accordance with law, shall upon conviction be confined in the penitentiary not less than two (2) years nor more than five (5) years. As amended Acts 1951, 52nd Leg., p. 456, ch. 282, § 1.

Emergency. Effective May 19, 1951.

TITLE 18—LABOR

CHAPTER SIX—WORKMEN AND FIREMEN

Art. 1583—1. Hours of works of firemen and policemen; vacations

Sec. 3a. Firemen and Policemen shall have the same number of vacation days and the same number of holidays, or days in lieu thereof, that is granted to other municipal employees. Added Acts 1951, 52nd Leg., p. 436, ch. 270, § 1.

Sec. 7. The provisions of this Act shall not be construed to prevent firemen and policemen from working extra hours when exchanging hours of work with each other with the consent of the department head. As amended Acts 1951, 52nd Leg., p. 436, ch. 270, § 2.

Emergency. Effective May 19, 1951.

Art. 1583—2. Compensation of firemen and policemen in certain cities; adoption of law in cities of 10,000 to 40,001—Hours of Work or Duty

Section 1. It is hereby provided that in any city of this State of not less than one hundred and seventy-five thousand (175,000) inhabitants according to the last preceding Federal Census, or any succeeding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the sum of not less than Two Hundred and Twenty Dollars (\$220) per month, and the additional sum of Two

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

Dollars (\$2) per month for each year of service in such Police or Fire Department up to and including twenty-five (25) years of service in such department, as a minimum wage for the services so rendered. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said departments.

It is provided further, that in all cities in this State with inhabitants thereof between ten thousand (10,000) and one hundred and seventy-five thousand (175,000) according to the last preceding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the following sums per month according to the population of each such city of ten thousand (10,000) or more and up to forty thousand and one (40,001), such salary shall be One Hundred and Sixty-five Dollars (\$165) per month minimum; in all such cities with inhabitants of forty thousand and one (40,001) to one hundred thousand and one (100,001) inhabitants, such minimum salaries shall be One Hundred and Ninety-five Dollars (\$195) per month; and in all such cities from one hundred thousand and one (100,001) to one hundred and seventy-five thousand (175,000) inhabitants, such minimum salaries shall be Two Hundred and Ten Dollars (\$210) per month; and in all such cities the additional sum of Two Dollars (\$2) per month for each year of service in such Fire or Police Department up to and including twenty-five (25) years of service in such Department, as a minimum wage for the services so rendered. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said Departments; provided, however, that the provisions of this Act shall not apply to the cities of ten thousand (10,000) or more inhabitants and up to forty thousand and one (40,001) inhabitants, unless at an election which shall be called upon a petition signed by qualified voters in said city in number not less than ten per cent (10%) of the total number voting in the last preceding election; provided, however, that said petition must be presented within sixty (60) days from the effective date of this Act; and provided further, that subject to the foregoing provisions, the election shall be had within ninety (90) days from the effective date of this Act, to be held in accordance with the State laws and the city charter, at which the adoption or rejection of this Act shall be submitted at such election. If at said election, a majority of the people voting shall favor the adoption of the provisions of the Act, it shall thereafter become the duty of said governing body to put into effect the provisions of this Act. In the event a majority of the voters in any such election reject the adoption of this Act, then such matter shall not be resubmitted to the electors for a period of one (1) year; and thereafter, the same may be resubmitted upon a petition signed by qualified voters in said city in number not less than five per cent (5%) of the total number voting in the last preceding city election, upon the filing of which the city governing body shall again resubmit the question of the adoption or rejection of this Act. Provided, in cities having a population of not less than ten thousand (10,000) inhabitants, nor more than forty thousand (40,000) inhabitants according to the last preceding Federal Census, which are governed by the provisions of this Act, the governing body of such city may call an election and submit to the qualified voters of such city whether it shall be unlawful to require or permit any member of the Fire Department to work or be on duty more than seventy-two (72) hours in any one calendar week and no more than one hundred and forty-four (144) hours in any two (2) calendar weeks in the discharge of his duties. As amended Acts 1951, 52nd Leg., p. 674, ch. 390, § 1.

Sec. 1—a. Repealed. Acts 1951, 52nd Leg., p. 674, ch. 390, § 1A.

Effective 90 days after June 8, 1951, date of adjournment.

Section 1B of the amendatory Act of 1951 provided that notwithstanding any other provision of this Act, the longevity or service pay required by this Act shall

not become effective as to any individual city until the beginning of its next following fiscal year after this Act becomes applicable to such individual city.

TITLE 19—MISCELLANEOUS OFFENSES

Chap.	Art.
15. Boats [New] - - - - -	1722
16. Bombs [New] - - - - -	1723

CHAPTER TWELVE—COMMERCIAL FERTILIZER

Art. 1716. Definitions

These terms mean:

1. A commercial fertilizer is any material, substance or mixture which contains or is claimed to contain more than one per cent of total phosphoric acid, or of potash, or of nitrogen, and which is used for application to the soil to promote the growth of crops; or any substance, material or mixture, which is claimed to exert a beneficial action upon the soil or to promote the growth of crops. Lime, limestone, marl, agricultural gypsum, unground bones, stockpen manure, barn-yard manure, or the excrement of any domestic animal shall be exempt from the provisions of this Chapter, in case said manure or excrement has not been dried or manipulated or otherwise treated or is not claimed to have a value of more than Four (\$4.00) Dollars a ton. As amended Acts 1951, 52nd Leg., p. 13, ch. 9, § 1.

Emergency. Effective Feb. 28, 1951.

CHAPTER FIFTEEN—BOATS [NEW]

Art.

1722. Life preservers.

Art. 1722. Life preservers

Rented boats to have life preservers; exception as to portion of river near bay, inlet or gulf waters

Section 1. It shall be unlawful for any person, firm, corporation or group of persons to rent or let for hire any boat upon any of the lakes or rivers of this State without having such boat equipped with at least one (1) life preserver for each person aboard. Provided however, the provisions of this Act shall not apply to that portion of a river within ten (10) miles of any bay, inlet, or gulf waters into which said river flows.

Life preserver defined

Sec. 2. For the purpose of this Act, the term "life preserver" shall mean any apparatus, device or object designed for and capable of floating, supporting or buoying up the body of an adult in the water.

Enforcement

Sec. 3. Game Wardens and all Peace Officers with the exception of Constables shall enforce the provisions of this Act.

Punishment for violations

Sec. 4. Any person, firm, corporation or group of persons violating the provisions of this Act shall be deemed guilty of a misdemeanor, and upon the first conviction shall be punished by a fine of not less than Five Dollars (\$5) nor more than Twenty-five Dollars (\$25). Any person who is subsequently convicted under the provisions of this Act, shall for the second offense, be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100); and for all subsequent convictions thereafter such persons shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than Two Hundred Dollars (\$200).

Effective date

Sec. 5. This Act shall be effective from and after June 15, 1951.

Gulf of Mexico

Sec. 6. Provisions of this Act shall not apply to the Gulf of Mexico.

Caddo Lake

Sec. 7. Nothing herein shall apply to the part of Caddo Lake situated in Marion County.

Partial unconstitutionality

Sec. 8. If any portion of this Act shall be held unconstitutional by any court of competent jurisdiction, the remaining provisions hereof shall, nevertheless, be valid the same as if the portion held unconstitutional had not been adopted by the Legislature as a part of this Act. Acts 1951, 52nd Leg., p. 297, ch. 176.

Section 9 of the act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act making it illegal for any person, firm, corporation or group of persons to rent or let for hire any boat upon any of the lakes of this State without having such boat equipped with one (1) life preserver

for each person aboard; defining the term "life preserver"; providing for enforcement; providing effective date; providing a saving clause; providing a penalty for violation hereof; exempting certain waters; repealing all laws in conflict; and declaring an emergency. Acts 1951, 52nd Leg., p. 297, ch. 176.

CHAPTER SIXTEEN—BOMBS [NEW]

Art.

1723. Offenses in connection with bombs.

Art. 1723. Offenses in connection with bombs**Definition of bomb**

Section 1. The term "bomb," as used in this Act means:

(a) Any explosive, inflammable or combustible substance controlled in any form of container whatsoever whereby the same is susceptible of being set off or exploded, or which automatically explodes when coming in contact with heat, fire, mechanical contrivance or chemical process or which will ignite, detonate or dissemble in any manner so as to cause injury or harm to any person, animal or plant life, or which will damage property in any manner.

(b) Any substance classified by scientists as being fissionable or capable of liberating subatomic or nuclear energy in quantities destructive of life and property.

(c) Any collection of nitroglycerine, dynamite, gunpowder, guncotton or other form of explosive matter including caps, fuses or fuse-heads ca-

pable by their ignition or explosion of causing damage to persons or property.

(d) Any container which may conceal or segregate bacteria, disease germs, poisons, poisonous gases or contagious matter of any kind that is capable of causing sickness, nausea, disability or death to any person or animal, or which may inoculate plant life, contaminate water, air or food, or damage property.

(e) Any time bomb, booby trap, land mine, dynamite stick, infernal machine or any other contrivance reasonably believed by the arresting person to be intended to be used for unlawful purposes.

(f) Any capsules, ampules, tubes, torpedoes or encased containers that may contain disease-spreading, inflammable, combustible, harmful or explosive substance of any kind or which if commingled with other substances would cause an explosion or any condition or situation which might endanger life, health or property.

Manufacturing, owning, storing, keeping, selling, transporting, possessing or having control

Sec. 2. Whoever shall manufacture, own, store, keep, sell, transport, possess or have in his control a bomb, as defined in Section 1, shall be guilty of a felony and upon conviction shall be confined in the State Penitentiary for not less than five (5) years and not more than twenty-five (25) years and fined not less than One Thousand Dollars (\$1,000) and not more than Ten Thousand Dollars (\$10,000), either or both. If mayhem or death shall result from such act, then the death penalty may be assessed.

Possession on person or in container; deposit; possession of parts

Sec. 3. Whoever shall be found with a bomb on his person, or in any container carried by him or if he is shown to have just cast from him a bomb to avoid capture with it in his possession, or who is shown to have deposited the same at a place where he intended for it to be exploded or where it might have exploded and caused damage to the life, health or property of another, or who has in his possession any component part of such bomb which, if combined with any other material or contrivance, could or would be calculated to explode and damage property, life or health, shall be punished as herein set forth.

Possession, etc., for unlawful purpose or for commission of crime

Sec. 4. Whoever shall be found with such bomb on his person, or to have had the same in his possession or under his control, or to have had it before he deposited it or cast it from him to avoid capture with it in his possession, and who is or was about to use the same for unlawful purpose or for the commitment of any crime such as burglary, murder, arson, mayhem, extortion, robbery or intimidation, or for the destruction of any house that he desires another person or persons to vacate or abstain from occupying, or for the purpose of forcing others to obey his will by threatening the use of said bomb, shall be guilty of violation as set forth in this Act.

Contamination of water, air or food supply

Sec. 5. Whoever shall contaminate the water supply, the air supply or the food supply of any person or persons, or of the public generally, by any bomb or container from which disease germs or bacteria are released or are allowed to escape for the purpose of destroying life or of injuring the health of any person, animal or plant shall be deemed guilty of violating this Act.

Attaching so as to explode on ordinary use of thing to which attached

Sec. 6. Whoever shall attach any bomb to any structure, window, doorway, automobile or other object or to any mechanism where, upon the ordinary use of the same, an explosion will result that does or may cause damage to health, life or property of another, shall be guilty of a violation of this Act.

Possession of parts with intent to combine

Sec. 7. Whoever shall be shown to have brought a component part of such bomb to a certain place, or to have had same in his possession with the intent of combining it with other substance, mechanism or contrivance that will render it capable of producing an explosion, dispersion or combustion which will cause danger to life, health or property of another shall be guilty of the violation of this Act.

Aiding, abetting or conspiring

Sec. 8. Any person who is shown to have aided, abetted, conspired with, or caused another to possess, transport, deposit, store or control a bomb for the purpose of causing injury to any person or to his property, or who is shown to have given any direction to another as to where such bomb should be or was kept, used, planted, or employed, shall be deemed guilty of a violation of this Act as if the said instigator was actually present and had the said bomb in his custody and possession.

Exemptions

Sec. 9. The provisions of this Act shall not apply to duly constituted police or law enforcement officers, or to members of the military, naval or air force establishments when acting within their official capacities, or to licensed and recognized manufacturers, storers or dealers in pest destroyers, chemical substances or laboratory supplies of any kind, or to licensed physicians, surgeons, chemists, pharmacists, nurses or hospital employees in their usual employment. Nor shall it apply to railroads, commercial truckers or recognized operators or licensed dealers who transport or use dynamite or other explosives in legitimate mining, oil developing, manufacturing or displaying of fireworks, or to torpedoes, fuses and other inflammable or explosive substances used by railroads as warning or signal devices, or to persons manufacturing, storing, transporting or selling ammunition where the said persons are engaged regularly in the legitimate business of dealing in such substances. Nor shall it apply to any substances or containers used or intended to be used for industrial, mechanical, laboratory or medical purposes, or for use in the arts and sciences, or for use as economic poisons, antifreeze preparations, or fuels. This Act shall exempt the following items: small arms propellant powder, and small arms primers, and percussion caps, and old fashioned black powder.

Suppression of violations; searches

Sec. 10. Whenever it comes to the knowledge of any sheriff or other peace officer of the State, or of any county or precinct, by affidavit of a reputable citizen or otherwise, that any provision of this Act is being violated or about to be violated, such officer shall immediately avail himself of all lawful means to suppress this violation; and he shall be authorized by any search warrant that is issued by virtue of this Act to enter any house, room or place to be searched, using such force as is necessary to accomplish said purpose.

Law cumulative; partial invalidity

Sec. 11. The offenses defined herein and the punishment provided are cumulative of other existing laws relating to bombs or explosives and the provisions of this Act shall not repeal any existing laws of this State so relating. Should any section or part of this Act be held invalid, it shall not affect nor invalidate any other section or part hereof. Acts 1951, 52nd Leg., p. 783, ch. 435.

Effective 90 days after June 8, 1951, date of adjournment.

THE
CODE OF CRIMINAL
PROCEDURE

TITLE 2—COURTS AND CRIMINAL JURISDICTION

ACTS CREATING CRIMINAL DISTRICT COURTS AND SIMILAR COURTS AND AFFECTING SUCH COURTS, AND DECISIONS THEREUNDER

**HARRIS COUNTY—CRIMINAL
DISTRICT COURT NO. 3**

Art.

52—158a. Criminal District Court No. 3 of Harris County [New].

**DALLAS COUNTY CRIMINAL COURT
Art.**

52—159a. County Criminal Court No. 2 of Dallas County [New].

Article 52—1. Dallas criminal district court created; jurisdiction

Acts 1951, 52nd Leg., p. 663, ch. 333, § 1 amended art. 52 of the Code of Criminal Procedure, as amended, "as the same relates to and provides for the Criminal District Court of Dallas County and the Criminal District Court No. 2, of Dallas County, and Article 199 of the Revised Civil Statutes of the State of Texas, 1925, as amended, as the same relates to and provides for

the 14th, 44th, 68th, 95th, 101st, 116th, and 134th District Courts of Dallas County, Texas," to read as set forth under Art. 199 of the Civil Statutes, subd. "14, 44, 68, 95, 101, 116, 134, Criminal District Court and Criminal District Court No. 2. Dallas County."

Art. 52—8. Criminal District Court No. 2 of Dallas County created

Acts 1951, 52nd Leg., p. 663, ch. 333, § 1 amended Art. 52 of the Code of Criminal Procedure, as amended, "as the same relates to and provides for the Criminal District Court of Dallas County and the Criminal District Court No. 2, of Dallas County and Article 199 of the Revised Civil Statutes of the State of Texas, 1925, as amend-

ed, as the same relates to and provides for the 14th, 44th, 68th, 95th, 101st, 116th, and 134th District Courts of Dallas County, Texas," to read as set forth under Art. 199 of the Civil Statutes, subd. "14, 44, 68, 95, 101, 116, 134, Criminal District Court and Criminal District Court No. 2. Dallas County".

HARRIS COUNTY—CRIMINAL DISTRICT COURT NO. 3

Art. 52—158a. Criminal District Court No. 3 of Harris County

Section 1. There is hereby created and established at the city of Houston a criminal district court to be known as the "Criminal District Court No. 3 of Harris County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Harris County and the Criminal District Court No. 2 of Harris County under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County now have jurisdiction; and the judge of any one (1) of said criminal district courts may in his discretion transfer any cause or causes that may at any time be pending in his court to one (1) of the other criminal district courts by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such criminal district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of

that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court, provided no case shall be transferred without the consent of the judge of the court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 3, 6, or 9 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 3 of Harris County, and after the effective date of this Act, the clerk of the criminal district courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County and so on in rotation.

Sec. 3. The judge of said Criminal District Court No. 3 of Harris County shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of the judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified. The judge of any one of said criminal district courts may, in his discretion, in the absence of the judge of one of the other criminal district courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And any one of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular judge of said criminal court could make if personally present and presiding.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 3 of Harris County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, criminal district attorney and the clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the sheriff, criminal district attorney and clerk, respectively, of said Criminal District Court No. 3 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, criminal district at-

torneys and clerks of the district courts of the State; and said sheriff, criminal district attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the clerk of the criminal district court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The criminal district attorney may appoint an assistant criminal district attorney, in addition to those now provided by law, to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant district attorneys, and shall be removable at the will of the criminal district attorney, and shall receive a salary not to exceed the maximum salary allowed assistant district attorneys; said salary to be payable monthly by said county by warrant drawn from the Officers' Salary Fund or other general funds thereof. The judge of the Criminal District Court No. 3 of Harris County shall appoint an official court reporter for said court as provided by law.

Sec. 6. Said court shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, one (1) term beginning the first Monday in May, one (1) term beginning on the first Monday in August, one (1) term beginning on the first Monday in November, and one (1) term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in district courts. The district judges of the criminal district courts of Harris County shall successively appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal district courts of the county for each week during the time said courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the criminal district courts for the respective weeks for which they are designated to serve. The judges of the said criminal district courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the criminal district judge to whom the panel of jurors shall report for duty, and said judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said criminal district courts, and they may be used interchangeably in the criminal district courts. In the event of a deficiency of said jurors, the judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act. Acts 1951, 52nd Leg., p. 500, ch. 307.

Emergency. Effective June 1, 1951.

Section 7 of the Act of 1951 made appropriations. Section 8 provided that partial unconstitutionality or invalidity should not

affect the remainder of the act. Section 9 repealed conflicting laws and parts of laws.

DALLAS COUNTY CRIMINAL COURT

Art. 52—159a. County Criminal Court No. 2 of Dallas County

Section 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court No. 2 of Dallas County, Texas."

Sec. 2. The County Criminal Court No. 2 of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The county Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 2 of Dallas County, Texas; and except such as have heretofore been conferred upon the Judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

Sec. 4. The County Criminal Court, Number Two, of Dallas County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

Sec. 5. The terms of the County Criminal Court, Number Two, of Dallas County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said County Criminal Court, Number Two, shall be held not less than four (4) times each year and the Commissioners Court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a Judge of the County Criminal Court, Number Two, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for two (2) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Dallas for two (2) years next preceding his appointment or election.

Sec. 7. The Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county Judges.

Sec. 8. A special Judge of the County Criminal Court, Number Two, of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the Judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Two, Dallas County, Texas." The sheriff of Dallas

County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 10. The Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court not to exceed Eight Thousand, Three Hundred Dollars (\$8,300) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

Sec. 11. The Judge of the County Criminal Court, Number Two, of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county Judge may be removed under the laws of this State.

Sec. 12. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect the clerk of the County Criminal Court, Number One, of Dallas County, Texas, may transfer to the docket of the County Criminal Court, Number Two, of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered in the minutes of his court, and the Judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court. Acts 1951, 52nd Leg., p. 52; ch. 32.

Emergency. Effective March 19, 1951.

Sections 14 and 15 of the act of 1951 read as follows:

"Sec. 14. All laws or parts of laws in conflict herewith are hereby expressly repealed.

"Sec. 15. If any word, sentence, part or section of this Act shall be held unconstitutional or invalid for any reason, the remainder of the Act shall nevertheless be in full force and effect."

TITLE 5—ARREST, COMMITMENT AND BAIL

CHAPTER FOUR—BAIL

2. RECOGNIZANCE AND BAIL BOND

Art. 277. [325] [313] How bail taken

Sec. 2. Provided, however, that in misdemeanor cases in any county having a population of more than one hundred sixty thousand (160,000), according to the last preceding or any future Federal Census, any person who has signed as a surety on a bail bond and is in default thereon shall thereafter be disqualified to sign as a surety so long as he

is in default on said bond. It shall be the duty of the Clerk of the Court wherein such surety is in default on a bail bond, to notify in writing the Sheriff, Chief of Police, or other peace officer, of such default. Added Acts 1951, 52nd Leg., p. 331, ch. 202, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

CHAPTER ONE—ORGANIZATION OF THE GRAND JURY

Art. 338b.	Continuation of grand jury for successive terms [New].	Art. 367h.	Bailiffs in counties with population of 250,000 or more; appointment; compensation; removal [New].
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Article 333. 384, 372 Appointment of jury commissioners

The District Judge, at or during any term of court, shall appoint not less than three (3), nor more than five (5) persons to perform the duties of jury commissioners, and shall cause the sheriff to notify them of their appointment, and when and where they are to appear. The District Judge shall, in the order appointing such commissioners, designate whether such commissioners shall serve during the term at which selected or for the next succeeding term. Such commissioners shall receive as compensation for each day or part thereof they may serve the sum of Four (\$4.00) Dollars, and they shall possess the following qualifications:

1. Be intelligent citizens of the county and able to read and write the English language;
2. Be qualified jurors and freeholders in the county;
3. Have no suit in said court which requires intervention of a jury;
4. Be residents of different portions of the county;
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; Acts 1947, 50th Leg., p. 141, ch. 83, § 2; Acts 1951, 52nd Leg., p. 816, ch. 461, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 338. 389, 377 Shall select grand jurors

The jury commissioners shall select sixteen men from the citizens of different portions of the county to be summoned as grand jurors for the next term of court, or the term of court for which said commissioners were selected to serve, as directed in the order of the court selecting the commissioners. As amended Acts 1951, 52nd Leg., p. 815, ch. 460, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 338b. Continuation of grand jury for successive terms

Section 1. Any district judge or criminal district judge, in a county having two (2) or more criminal district courts having previously empaneled a grand jury, shall have the power to continue such grand jury in session for successive terms for a period of not to exceed one (1) year when it appears to such district judge or criminal district judge that such grand jury has not completed its investigation of matters pending before it.

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

Sec. 2. Any district judge or criminal district judge continuing a grand jury in session beyond its regular term shall note the reasons for such continuation on the minutes of his court, and any indictment returned by said grand jury after the expiration of its original term shall be as valid as if the same had been returned during its regular term. Acts 1951, 52nd Leg., p. 55, ch. 33.

Emergency. Effective March 19, 1951.

Section 2A of the Act of 1951 provided that the Act should be operative from its effective date and for one year thereafter.

Title of Act:

An Act authorizing district judges and criminal district judges in counties having two (2) or more criminal district courts to continue grand juries in session for

successive terms not to exceed one (1) year; validating indictments returned after the expiration of the original term; providing the Act shall be operative from its effective date and for one (1) year thereafter; and declaring an emergency. Acts 1951, 52nd Leg., p. 55, ch. 33.

Art. 348. 399, 387 Failure to select

"If for any reason a grand jury shall not be selected or summoned prior to the commencement of any term of court, or when none of those summoned shall attend, the District Judge may at any time after the commencement of the term, in his discretion, direct a writ to be issued to the sheriff commanding him to summon a jury commission, selected by the court, which commission shall select sixteen (16) persons, as provided by law, who shall serve as grand jurors. As amended Acts 1951, 52nd Leg., p. 815, ch. 460, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Art. 367h. Bailiffs in counties with population of 250,000 or more; appointment; compensation; removal

Section 1. In all counties having a population of two hundred and fifty thousand (250,000) or more inhabitants, according to the last preceding or any future Federal Census, the judges of the district courts to whom the grand jury reports may, with the approval of the Commissioners Court, appoint grant jury bailiffs not exceeding seven (7), whose compensation shall be fixed by order of the Commissioners Court; such compensation to be paid out of the general fund or jury fund in twelve (12) equal monthly installments, plus an automobile allowance to be set by the Commissioners Court of said counties.

Sec. 2. Bailiffs thus appointed are subject to removal without cause at the will of the judge or judges appointing them. Acts 1951, 52nd Leg., p. 208, ch. 123.

Emergency. Effective May 2, 1951.

Title of Act:

An Act providing for the appointment of grand jury bailiffs in the counties having a population of two hundred and fifty thousand (250,000) or more, according to the

last preceding or any future Federal Census; providing for compensation for grand jury bailiffs; providing for removal of such bailiffs; and declaring an emergency. Acts 1951, 52nd Leg., p. 208, ch. 123.

CHAPTER FOUR—PROCEEDINGS PRELIMINARY TO TRIAL

3. SUBPOENA AND ATTACHMENT

Art.
486a. Uniform Act to secure attendance of witnesses from without state [New].

5. ARRAIGNMENT

494a. Compensation of counsel appointed to defend [New].
494b. Elected county officials not to be appointed as counsel; may refuse to act [New].

3. SUBPCENA AND ATTACHMENT

Art. 486a. Uniform Act to secure attendance of witnesses from without state

Short title

Section 1. This Act may be cited as the "Uniform Act to Secure the Attendance of Witnesses from Without the State in Criminal Proceedings."

Definitions

Sec. 2. "Witness" as used in this Act shall include a person whose testimony is desired in any proceeding or investigation by a Grand Jury or in a Criminal Action, Prosecution or Proceeding.

The word "State" shall include any Territory of the United States and the District of Columbia.

The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness.

Summoning Witness in this State to Testify in Another State

Sec. 3. If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this State certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this State is a material witness in such prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, (and of any other state through which the witness may be required to pass by ordinary course of travel), will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima-facie evidence of all the facts stated therein.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to

assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima-facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of Ten Cents (10¢) a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and Five Dollars (\$5) for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

Witness from Another State Summoned to Testify in this State

Sec. 4. If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this State, is a material witness in a prosecution pending in a court of record in this State, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this State to assure his attendance in this State. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

If the witness is summoned to attend and testify in this State he shall be tendered the sum of Ten Cents (10¢) a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and Five Dollars (\$5) for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this State a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this State, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

Exemption from Arrest and Service of Process

Sec. 5. If a person comes into this State in obedience to a summons directing him to attend and testify in this State he shall not while in this State pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

If a person passes through this State while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he shall not while so passing through this State be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

Constitutionality

Sec. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. Acts 1951, 52nd Leg., p. 798, ch. 441.

Emergency. Effective June 15, 1951.

Section 6 of the act of 1951 repealed inconsistent laws or parts of laws.

Title of Act:

An Act to secure the attendance of witnesses from without the State in criminal

proceedings; defining certain terms; exempting certain persons from arrest and service of process; repealing all laws or parts of laws in conflict; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 798, ch. 441.

5. ARRAIGNMENT

Art. 494a. Compensation of counsel appointed to defend

Section 1. Whenever the Court shall appoint one or more counsel to defend any person or persons pursuant to law in any felony case in this State, each counsel may, at the discretion of the trial judge, be paid a fee in the sum of Ten Dollars (\$10) per day for each day such appointed attorney is actually in trial court representing the person or persons he has been appointed to represent. Provided, further, that in all cases wherein a bona fide appeal is actually prosecuted to a final conclusion, each appointed counsel may be paid Twenty-five Dollars (\$25) for said appeal. The fee allowed counsel shall be paid by the county wherein such trial is held and such sum to be paid from county funds.

Section 1A. The Commissioners Court of any county in the State may determine within its discretion whether or not such county shall pay the fees provided herein.

Sec. 2. No such allowance shall be made unless an affidavit is filed with the Clerk of the Court by the Defendant showing that he is wholly destitute of means to provide counsel, and that he has not been released on bail bond. Acts 1951, 52nd Leg., p. 25, ch. 19.

Effective 90 days after date of adjournment.

Title of Act:

An Act providing for compensation of counsel appointed pursuant to law to de-

fend persons in criminal cases; providing for the payment of such compensation; and declaring an emergency. Acts 1951, 52nd Leg., p. 25, ch. 19.

Art. 494b. Elected county officials not to be appointed as counsel; may refuse to act

From and after the effective date of this Act, no elected county official in this State, who is a member of the legal profession and licensed to practice law in this State, shall be appointed by any court to represent any person accused of crime, and said official shall be under no duty to defend any such persons under such appointment unless he chooses to do so. Acts 1951, 52nd Leg., p. 752, ch. 408, § 1.

Emergency. Effective June 15, 1951.

Title of Act:

An Act to exempt elected county officials who are members of the legal pro-

fession from being appointed to defend criminals in all courts of this State; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1951, 52nd Leg., p. 752, ch. 408.

TITLE 8—TRIAL AND ITS INCIDENTS

CHAPTER TWO—SPECIAL VENIRE IN CAPITAL CASES

Art. 597. 668, 650 Service of writ

The officer executing the writ shall summon the men whose names are upon the list attached to be before the court at the time named in the writ to serve as veniremen. Such summons may be verbal upon each juror in person or by mailing the summons to the persons named on the list at the address last known to the officer, by first class United States mail, as the judge of the court may direct. As amended Acts 1951, 52nd Leg., p. 584, ch. 340, § 1.

Emergency. Effective June 2, 1951.

CHAPTER SEVEN—EVIDENCE IN CRIMINAL ACTIONS

5. MISCELLANEOUS PROVISIONS

Art.

732a. Indictment, information or complaint
not admissible to impeach witness
[New].

5. MISCELLANEOUS PROVISIONS

Art. 732a. Indictment, information or complaint not admissible to impeach witness

The fact that a defendant in a criminal case, or a witness in a criminal case, is, or has been, charged by indictment, information or complaint, with the commission of an offense against the criminal laws of this State, of the United States, or any other State shall not be admissible in evidence on the trial of any criminal case for the purpose of impeaching any person as a witness unless on trial under such indictment, information or complaint a final conviction has resulted, or a suspended sentence has been given and has not been set aside, or such person has been placed on probation and the period of probation has not expired. Acts 1951, 52nd Leg., p. 814, ch. 458, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the act of 1951 repealed conflicting laws and parts of laws to the extent of the conflict.

Title of Act:

An Act prohibiting the use in evidence against a defendant in a criminal case or

a witness for the purpose of impeachment as a witness of any complaint, information, or indictment unless a conviction for the offense charged has resulted; repealing all conflicting laws; and declaring an emergency. Acts 1951, 52nd Leg., p. 814, ch. 458.

TITLE 9—PROCEEDINGS AFTER VERDICT**CHAPTER ONE—NEW TRIALS**

<p>Art. 759a. Statement of facts and bills of exception [New].</p> <p>760d. Time for filing bills of exception [New].</p>	<p>Art. 760e. Motions, exceptions and statement of facts constitute bill of exceptions [New].</p>
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Art. 755. 839, 819 Time to apply for new trial; amendment

A Motion for new trial shall be filed within ten (10) days after conviction as evidenced by the verdict of the jury, and may be amended by leave of the court at any time before it is acted on within twenty (20) days after it is filed. Such Motion shall be presented to the court within ten (10) days after the filing of the original or amended motion, and shall be determined by the court within twenty (20) days after the filing of the original or amended Motion, but for good cause shown the time for filing or amending may be extended by the court, but shall not delay the filing of the record on appeal.

A Motion for new trial may be filed after the expiration of the term at which said conviction resulted, either during a new term of court or during vacation, and a Motion for new trial may be determined in vacation or at a new term of court, and need not be determined during the term at which filed. As amended Acts 1951, 52nd Leg., p. 818, ch. 464, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section of the amendatory act of 1951 provided that if any section, subsection, paragraph or phrase of the Act be held

invalid, the remaining portion shall not thereby be rendered invalid; and it is declared by the Legislature that it would have enacted the remaining portions of said Act without the inclusion of that part which is held invalid.

Art. 759a. Statement of facts and bills of exception**Right to statement of facts**

Section 1. A. Where the defendant in a criminal case appeals, he is entitled to a Statement of Facts which shall be sent up with the record.

Form of testimony

B. The testimony of the witnesses need not be in narrative form but may be in question and answer form. The defendant or his attorney or the attorney representing the state, may prepare and file with the clerk of the court where the case is tried, a condensed statement in narrative form of all or part of the testimony and deliver a true copy thereof to the opposing party, or his counsel, and such opposing party, if dissatisfied with the narrative statement, may require the testimony in question and answer form to be substituted for all or part thereof.

Exclusions and abridgment

C. Formal parts of all exhibits and more than one copy of any document appearing in the Transcript or Statement of Facts shall be excluded. All documents shall be abridged by omitting all irrelevant and formal portions thereof.

Designation of portions of evidence

D. Within fifteen (15) days after notice of appeal is given and where a request is made of the official court reporter for the preparation of a Transcript of all or any part of the evidence adduced on trial of the case, or whenever, with or without such a request, a Statement of Facts is filed or offered for filing by appellant, the appellant shall deliver or mail to

the attorney for the state and file with the clerk of the court a designation in writing of the portions of the evidence desired and shall specify the portions desired in narrative form, if any, and the portions desired in question and answer form, if any, and the portions that are desired to be omitted. Within ten (10) days thereafter any party to the appeal may file a designation in writing of any additional portions of the evidence to be included, specifying the portions to be in narrative form, if any, and the portions desired in question and answer form, if any.

Agreement or approval

E. If the Statement of Facts is agreed to by the defendant or his counsel, and the attorney representing the state, it need not be approved by the court. If the parties cannot agree on a Statement of Facts within seventy-five (75) days after giving of notice of appeal, the trial judge shall prepare and certify to a Statement of Facts.

Form and contents of bill of exceptions; excluded testimony

Sec. 2. Where the Statement of Facts in question and answer form reflects the admission or rejection of testimony objected to or offered by the defendant, the defendant's objection thereto, the evidence rejected, the court's ruling thereon and the defendant's exception to the court's ruling, and such Statement of Facts shall constitute a Bill of Exception to action of the court in admitting such testimony and no formal Bill of Exception thereto shall be necessary. The defendant may, however, prepare and have filed a formal Bill of Exception. Where the defendant offers testimony which is rejected by the court the judge, if requested by defense counsel, shall immediately retire the jury and hear such testimony to allow defendant to perfect his Bill of Exception. Such rejected testimony may be carried in the Statement of Facts and may constitute a Bill of Exception.

Index

Sec. 3. The court reporter, in a Statement of Facts in question and answer form, shall prepare as a part thereof an index to the Bills of Exception contained in such Statement of Facts.

Time for filing statement

Sec. 4. The defendant shall file said Statement of Facts, in duplicate, with the clerk of the trial court within ninety (90) days after the date of giving notice of appeal.

Defendant unable to pay

Sec. 5. When a defendant in a felony case appeals and is not able to pay for a Transcript of the evidence, he shall make an affidavit of such fact and upon the making of such affidavit the court shall order the official court reporter to make a Statement of Facts in narrative or question and answer form, as the defendant in said affidavit shall request. For each said service he shall be paid by the State of Texas, upon certificate of the trial judge, one-half ($\frac{1}{2}$) of the rate provided by law in civil cases.

Statements of facts relating to motions

Sec. 6. This Statute shall apply to all Statements of Fact relating to any Motion heard in the case, but the facts adduced in connection with any Motion shall be filed with the clerk separately from the facts adduced bearing upon the guilt or innocence of the defendant.

Preparation independent of reporter's notes

Sec. 7. Nothing herein shall prevent the defendant or his counsel and the attorney representing the state from preparing and agreeing

upon a Statement of Facts independent of the notes of the official reporter. Acts 1951, 52nd Leg., p. 819, ch. 465.

Effective 90 days after June 8, 1951, date of adjournment.

Section 8 of the act of 1951 repealed Art. 760 as originally enacted and Acts 1931, 1st C.S., ch. 34, §§ 1, 7.

Section 9 read as follows: "If any section, subsection, paragraph or phrase of the Act be held invalid, the remaining portion shall not thereby be rendered invalid; and it is declared by the Legislature that it would have enacted the remaining portions of said Act without the inclusion of that part which is held invalid."

Title of Act:

An Act providing for Statement of Facts in a criminal proceeding; providing the form of such statement; providing how such statement shall be prepared; providing when and where such statement shall be filed; providing in certain instances Statement of Facts may constitute Bill of Exception; repealing conflicting laws; containing a savings clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 819, ch. 465.

Art. 760. 844-5-6 Statement of facts and bills of exception

Acts 1951, ch. 465, § 8, repealed article 760 "as originally enacted" and Acts 1931, 42nd Leg., 1st C.S., ch. 34, §§ 1, 7 which added section 2a to article 2237 of the Vernon's Ann.Civ.St., and amended subd.

1 of this article. As Acts 1931, 42nd Leg., p. 12, ch. 11, § 1, which amended subd. 2 of this article, was not repealed, subd. 2 evidently is still in force.

Art. 760d. Time for filing bills of exception

A defendant in a criminal prosecution shall have ninety (90) days after the giving of notice of appeal in which to prepare and file his Bills of Exception. Acts 1951, 52nd Leg., p. 817, ch. 462, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Title of Act:

An Act providing the time for filing Bills of Exception in a criminal case; and declaring an emergency. Acts 1951, 52nd Leg., p. 817, ch. 462.

Art. 760e. Motions, exceptions and statement of facts constitute bill of exceptions

All motions for change of venue, motion for new trial based on jury misconduct or that the jury received new evidence during deliberations, exceptions to the indictment or information, motions to set aside an indictment or information, motions to quash a venire or jury panel, or motions for continuance together with any answer thereto, the court's order thereon showing defendant's exception to the ruling, together with a Statement of Facts, where facts were adduced in connection therewith shall constitute the defendant's Bill of Exception, and no formal Bill of Exception need be prepared and filed. Provided, however, that the defendant may file a formal Bill of Exception. Acts 1951, 52nd Leg., p. 817, ch. 463, § 1.

Effective 90 days after June 8, 1951, date of adjournment.

Section 2 of the act of 1951 read as follows: "If any section, subsection, paragraph or phrase of the Act be held invalid, the remaining portion shall not thereby be rendered invalid; and it is declared by the Legislature that it would have enacted the remaining portions of said Act without the inclusion of that part which is held invalid."

Section 3 repealed conflicting laws or parts of laws to the extent of the conflict.

Title of Act:

An Act providing that in a criminal case where a written motion is filed and overruled, the motion, any reply thereto, the court's order thereon, the exception to such ruling, any evidence thereon, if any evidence was adduced, shall constitute a Bill of Exception on appeal and no formal Bill of Exception need be prepared; providing for Statement of Fact on any such motion; containing a savings clause; repealing conflicting laws; and declaring an emergency. Acts 1951, 52nd Leg., p. 817, ch. 463.

CHAPTER THREE—JUDGMENT AND SENTENCE

1. IN CASES OF FELONY

781c. Uniform Act for Out-of-State Parolee Supervision [New].

1. IN CASES OF FELONY

Art. 781c. Uniform Act for Out-of-State Parolee Supervision

Section 1. This Act may be cited as the Uniform Act for Out-of-State Parolee Supervision.

Sec. 2. The Governor of this State is hereby authorized and directed to execute a compact on behalf of the State of Texas with any of the United States legally joining therein in the form substantially as follows:

A COMPACT

Entering into by and among the contracting States, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled "An Act granting the consent of Congress to any two (2) or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes.¹"

The contracting States solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a State party to this compact (herein called "sending State"), to permit any person convicted of an offense within such State and placed on probation or released on parole to reside in any other State party to this compact (herein called "receiving State"), while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving State and can obtain employment there;

(b) Though not a resident of the receiving State and not having his family residing there, the receiving State consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving State to investigate the home and prospective employment of such person.

A resident of the receiving State, within the meaning of this Section is one who has been an actual inhabitant of such State continuously for more than one year prior to his coming to the sending State and has not resided within the sending State more than six (6) continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving State will assume the duties of visitation of and supervision over probationers or parolees of any sending State and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending State may at all times enter a receiving State and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of States party hereto, as to such persons. The decision of the sending

State to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving State; provided, however, that if at the time when a State seeks to retake a probationer or parolee there should be pending against him within the receiving State any criminal charge, or he should be suspected of having committed within such State a criminal offense, he shall not be retaken without the consent of the receiving State until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending State will be permitted to transport prisoners being retaken through any and all States parties to this compact, without interference.

(5) That the governor of each State may designate an officer who, acting jointly with like officers of other contracting States, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any State as between it and other State or States so executing. When executed it shall have the full force and effect of law within such State, the form of execution to be in accordance with the laws of the executing State.

(7) That this compact shall continue in force and remain binding upon each executing State until renounced by it. The duties and obligations hereunder of a renouncing State shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending State. Renunciation of this compact shall be by the same authority which executed it, by sending six (6) months' notice in writing of its intention to withdraw from the compact to the other States party hereto.

Sec. 3. If any section, sentence, subdivision or clause of this Act is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act. Acts 1951, 52nd Leg., p. 796, ch. 440.

14 U.S.C.A. § 111.

Emergency. Effective June 15, 1951.

Complementary Legislation:

U. S. Act May 24, 1949, c. 139, § 129, 63 Stat. 107, 4 U.S.C.A. § 111.

Alabama L.1939, No. 276, Code 1940, Tit. 42, § 27.

Florida Laws 1941, c. 20455, F.S.A. §§ 949.07 to 949.09.

New York Laws 1936, c. 388, McKinney's Correction Law, § 224.

New Jersey Laws 1936, c. 41, p. 107, N.J.S.A. 2:199-13 to 2:199-16.

Pennsylvania Act 1937, June 25, P.L. 2086, 61 P.S. §§ 321, 322.

South Dakota Laws 1947, c. 53, p. 65.

Title of Act:

An Act providing for the execution of an agreement by the State of Texas to enter into a compact with any of the United States for mutual helpfulness in relation to persons convicted of crime or offenses, who may be on probation or parole; providing a saving clause; and declaring an emergency. Acts 1951, 52nd Leg., p. 796, ch. 440.

CHAPTER FOUR—EXECUTION OF JUDGMENT

Art. 802. Executioner

The Warden of the State Penitentiary at Huntsville shall be the executioner; in case of his death, disability or absence, the executioner shall be that person appointed by the General Manager of the Texas Prison System. As amended Acts 1951, 52nd Leg., p. 772, ch. 423, § 1.

Emergency. Effective June 15, 1951.

TITLE 14—FUGITIVES FROM JUSTICE

Art.
1008a. Uniform Criminal Extradition Act
[New].

Art. 1008a. Uniform Criminal Extradition Act**Definitions**

Section 1. Where appearing in this Act, the term "Governor" includes any person performing the functions of Governor by authority of the law of this State. The term "Executive Authority" includes the Governor, and any person performing the functions of Governor in a state other than this State, and the term "State," referring to a state other than this State, includes any other state or territory, organized or unorganized, of the United States of America.

Fugitives from Justice; Duty of Governor

Sec. 2. Subject to the provisions of this Act, the provisions of the Constitution of the United States controlling, and any and all Acts of Congress enacted in pursuance thereof, it is the duty of the Governor of this State to have arrested and delivered up to the Executive Authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this State.

Form of Demand

Sec. 3. No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under Section 6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the Executive Authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the Executive Authority making the demand; provided, however, that all such copies of the aforesaid instruments shall be in duplicate, one complete set of such instruments to be delivered to the defendant or to his attorney.

Governor May Investigate Case

Sec. 4. When a demand shall be made upon the Governor of this State by the Executive Authority of another state for the surrender of a person so charged with crime, the Governor may call upon the Secretary of State, Attorney General or any prosecuting officer in this State to investigate or assist in investigating the demand, and to report to him the sit-

uation and circumstances of the person so demanded, and whether he ought to be surrendered.

**Extradition of Persons Imprisoned or Awaiting Trial in Another State or Who Have
Left the Demanding State Under Compulsion**

Sec. 5. When it is desired to have returned to this State a person charged in this State with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the Governor of this State may agree with the Executive Authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this State as soon as the prosecution in this State is terminated.

The Governor of this State may also surrender on demand of the Executive Authority of any other state any person in this State who is charged in the manner provided in Section 23 of this Act with having violated the laws of the state whose Executive Authority is making the demand, even though such person left the demanding state involuntarily.

Extradition of Persons not Present in Demanding State at Time of Commission of Crime

Sec. 6. The Governor of this State may also surrender, on demand of the Executive Authority of any other state, any person in this State charged in such other state in the manner provided in Section 3 with committing an act in this State, or in a third state, intentionally resulting in a crime in the state whose Executive Authority is making the demand, and the provisions of this Act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

Issue of Governor's Warrant of Arrest; Its Recitals

Sec. 7. If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the State seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Manner and Place of Execution

Sec. 8. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this Act to the duly authorized agent of the demanding state.

Authority of Arresting Officer

Sec. 9. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Rights of Accused Person; Application for Writ of Habeas Corpus

Sec. 10. No person arrested upon such warrant shall be delivered over to the agent whom the Executive Authority demanding him shall

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

have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this State, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

Penalty for Non-Compliance with Preceding Section

Sec. 11. Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the Governor's warrant, in willful disobedience to Section 10 of this Act, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than One Thousand Dollars (\$1,000) or be imprisoned not more than six (6) months, or both.

Confinement in Jail When Necessary

Sec. 12. The officer or persons executing the Governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this State with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the Executive Authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this State.

Arrest Prior to Requisition

Sec. 13. Whenever any person within this State shall be charged on the oath of any credible person before any judge or magistrate of this State with the commission of any crime in any other state and, except in cases arising under Section 6, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this State setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under Section 6, has fled from justice, or with having been convicted of a crime in that state and having escaped

from confinement, or having broken the terms of his bail, probation or parole and is believed to be in this State, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this State, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Arrest Without a Warrant

Sec. 14. The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one (1) year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding Section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

Commitment to Await Requisition; Bail

Sec. 15. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under Section 6, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty (30) days and specified in the warrant; as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the Executive Authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next Section, or until he shall be legally discharged.

Bail; in What Cases; Conditions of Bond

Sec. 16. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this State may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this State.

Extension of Time of Commitment; Adjournment

Sec. 17. If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty (60) days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in Section 16, but within a period not to exceed sixty (60) days after the date of such new bond.

Forfeiture of Bail

Sec. 18. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his

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

immediate arrest without warrant if he be within this State. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this State.

Persons under Criminal Prosecution in This State at Time of Requisition

Sec. 19. If a criminal prosecution has been instituted against such person under the laws of this State and is still pending the Governor, in his discretion, either may surrender him on demand of the Executive Authority of another state or hold him until he has been tried and discharged or convicted and punished in this State.

Guilt or Innocence of Accused, when Inquired into

Sec. 20. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the Governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the Governor, except as it may be involved in identifying the person held as the person charged with the crime.

Governor may Recall Warrant or Issue Alias

Sec. 21. The Governor may recall his warrant of arrest or may issue another warrant whenever he deems proper. Each warrant issued by the Governor shall expire and be of no force and effect when not executed within one year from the date thereof.

Fugitives from This State; Duty of Governor

Sec. 22. Whenever the Governor of this State shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this State, from the Executive Authority of any other state, or from the Chief Justice or an Associate Justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this State, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this State in which the offense was committed, or in which the prosecution for such offense is then pending.

Application for Issuance of Requisition; by Whom Made; Contents

Sec. 23.

I. When the return to this State of a person charged with crime in this State is required, the prosecuting attorney shall present to the Governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this State for trial and that the proceeding is not instituted to enforce a private claim.

II. When the return to this State is required of a person who has been convicted of a crime in this State and has escaped from confinement, or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or

the warden of the institution or sheriff of the county, from which escape was made, shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement, or the circumstances of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

III. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the Secretary of State to remain on record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

Costs and Expenses

Sec. 24. In all cases of extradition, the commissioners court of the county where an offense is alleged to have been committed, or in which the prosecution is then pending may in its discretion, on request of the sheriff and the recommendation of the prosecuting attorney, pay the actual and necessary expenses of the officer or person commissioned to receive the person charged, out of any county fund or funds not otherwise pledged.

Immunity from Service of Process in Certain Civil Actions

Sec. 25. A person brought into this State by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

Written Waiver of Extradition Proceedings

Sec. 25A. Any person arrested in this State charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in Sections 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this State a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 10.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the de-

manding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this Section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this State.

Non-Waiver by This State

Sec. 25B. Nothing in this Act contained shall be deemed to constitute a waiver by this State of its right, power or privilege to try such demanded person for crime committed within this State, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this State, nor shall any proceedings had under this Act which result in, or fail to result in, extradition be deemed a waiver by this State of any of its right, privileges or jurisdiction in any way whatsoever.

No Right of Asylum. No Immunity from Other Criminal Prosecutions While in This State

Sec. 26. After a person has been brought back to this State by, or after waiver of extradition proceedings, he may be tried in this State for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

Interpretation

Sec. 27. The provisions of this Act shall be interpreted and construed as to effectuate its general purposes to make uniform the law of those state which enact it.

Constitutionality

Sec. 28. 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 the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Short Title

Sec. 30. This Act may be cited as the Uniform Criminal Extradition Act. Acts 1951, 52nd Leg., p. 788, ch. 438.

Emergency. Effective June 15, 1951.

Section 29 of the act of 1951 repealed
inconsistent acts and parts of acts not
expressly repealed.

TITLE 15—COSTS IN CRIMINAL ACTIONS

CHAPTER THREE—COSTS PAID BY COUNTIES

Art. 1058. 1161 Pay of bailiffs

Each grand jury bailiff appointed as such bailiff shall receive as compensation for his services the sum of Five (\$5.00) Dollars for each day he may serve, and each riding grand jury bailiff appointed in counties of a population of one hundred fifty thousand (150,000) or more, according to the last Federal Census, shall receive as compensation for his

services the sum of Six (\$6.00) Dollars for each day he may serve, and shall further receive One (\$1.00) Dollar per day for automobile expense and upkeep; provided, however, that not more than ten (10) such bailiffs shall be employed at any one time; and providing further, that the sheriff or deputy sheriff attending any County or District Court in counties of over three hundred fifty thousand (350,000), according to the last preceding Federal Census shall be paid the sum of Six (\$6.00) Dollars for each day the sheriff or deputy sheriff shall serve in any of such said courts as bailiffs, and One (\$1.00) Dollar per day as automobile expense and upkeep for each day he may use said automobile. As amended Acts 1947, 50th Leg., p. 781, ch. 388, § 1.

The compensation herein provided for shall be paid from the General or Jury Fund of the county affected, as may be determined by the Commissioners Court thereof, upon sworn accounts showing the Court in which or the Grand Jury for which, said Bailiff, Sheriff, or Deputy Sheriff serves, with a statement showing the dates on which the service was performed and the amounts due. No such claim shall be paid until approved by the foreman of the Grand Jury or the Judge of the Court for which the service was performed, and said claim shall be presented to the Commissioners Court or to the County Auditor in counties having a County Auditor, and shall be allowed in the manner provided by law for so much thereof as may be found due, and no warrant in payment of the amount due shall be paid unless countersigned by the County Auditor, if any. Acts 1925, 39th Leg., p. 273, ch. 98, § 1; Acts 1927, 40th Leg., p. 320, ch. 217, § 1; Acts 1927, 40th Leg., 1st C.S., p. 154, ch. 54, § 1; Acts 1931, 42nd Leg., p. 222, ch. 130, § 1; Acts 1935, 44th Leg., p. 476, ch. 192, § 1.

Acts 1947, 50th Leg., c. 388, p. 781, § 1 purported to amend Article 1058 of the Code of Criminal Procedure without reference to the earlier amendments of 1927, 1931 and 1935.

The amendment of 1935, in addition to amending the first paragraph of Article

1058, added the provisions set out in the second paragraph of the text as to the payment of the compensation. It is questionable whether the provisions of the second paragraph of the text have been eliminated by the 1947 amendment.

TABLE OF SESSION LAWS

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1925 (39th Leg.) Regular Session

Ch.	P.	Sec.	Art.
135	340	2b	2350

1929 (41st Leg.) Regular Session

Ch.	P.	Sec.	Art.
40	77	1-24a	1302a Repealed
68	220	4	7089a Repealed
274	563	28	P.C. 590a Repealed

1931 (42nd Leg.) Regular Session

Ch.	P.	Sec.	Art.
269	449	1	1302a, § 23 Repealed

1933 (43rd Leg.) Regular Session

Ch.	P.	Sec.	Art.
222	750	—	1302a, § 3 Repealed
238	835	—	P.C. 430a Repealed

1935 (44th Leg.) Regular Session

Ch.	P.	Sec.	Art.
241	575	30a	7047c-1

1935 (44th Leg.) Second Called Session

Ch.	P.	Art.	Sec.	Art.
467	1795	1	21½	P.C. 666-21½
467	1795	1	27½	P.C. 666-27½
467	1795	1	56	P.C. 666-56 Repealed
467	1795	2	19C	P.C. 667-19C
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1936 (44th Leg.) Third Called Session

Ch.	P.	Art.	Sec.	Art.
495	2040	3	4 subs.	13a - 7047a-15a

1943 (48th Leg.) Regular Session

Ch.	P.	Sec.	Art.
67	86	22	5521a-4 note Repealed
318	476	1	7089b-7089h Repealed
325	509	19	P.C. 667-5A, Repealed

1945 (49th Leg.) Regular Session

Ch.	P.	Sec.	Art.
68	97	16-a, 16-b	2898-1
245	383	1	1302a, § 24 Repealed
269	423	4	7047b, § 8 Repealed
269	423	5	7047b, § 3-a Repealed

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369	668	I-VIII	—	2922-2 to 2922-8 Repealed

1947 (50th Leg.) Regular Session

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136	233	—	—	2922-2 to 2922-8 Repealed
252	450	—	—	2922-3 Repealed

1949 (51st Leg.) Regular Session

Ch.	P.	Sec.	Art.
307	564	—	6243i Repealed
328	614	1	6819a-6 Repealed
471	873	—	135b-2 Repealed
573	1118	—	2815-2 Repealed
591	1177	1	199(19, 54, 74) Repealed

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 Convened Jan. 9, 1951
 Adjourned June 8, 1951

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4	4	2	1970-122 note
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7	7	3-5	199(32) note
7	7	6, 7	199(132)
7	7	8-10	199(132) note
7	7	11	199(32)
7	7	12-14	199(132) note
7	7	15	Emergency
8	10	1-11	6889-3
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9	13	1	P.C. 1716 par. 1
9	13	2	Emergency
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19	25	1-2	C.C.P. 494a
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20	26	2	Emergency
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22	28	1	P.C. 667—19C
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22	28	3	Emergency
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54	84	1-3	4025a
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79	128	2	4477, rule 39a
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END OF VOLUME