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TEXAS NATURAL RESOURCES CODE 1984



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Texas Natural Resources Code

WITH TABLES
AND INDEX

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[OCT] 4 1984

*As Amended through the
1983 Regular and First
Called Sessions of the
68th Legislature*

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ST. PAUL, MINNESOTA

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PREFACE

This Pamphlet contains the text of the Natural Resources Code as amended through the 1983 Regular and First Called Sessions of the 68th Legislature.

The Natural Resources Code constitutes a unit of the Texas Legislative Council's statutory revision program. The Code was originally enacted by Acts 1977, 65th Leg., ch. 871.

Disposition and Derivation Tables are included preceding the Code, thus providing a means of tracing repealed subject matter into the Code and, on the other hand, of searching out the source of Code sections.

A detailed descriptive word Index at the end of the Code is furnished to facilitate the search for specific textual provisions.

Comprehensive coverage of the judicial constructions and interpretations of the Code, together with cross references, references to law review commentaries discussing particular provisions, and other editorial features, is provided in the volumes of Vernon's Texas Statutes and Codes Annotated.

THE PUBLISHER

July, 1984

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*

EFFECTIVE DATES

The following table shows the date of adjournment and the effective date of ninety day bills enacted at sessions of the legislature beginning with the year 1945:

Year	Leg.	Session	Adjournment Date	Effective Date
1945	49	Regular	June 5, 1945	September 4, 1945
1947	50	Regular	June 6, 1947	September 5, 1947
1949	51	Regular	June 6, 1949	September 5, 1949
1951	52	Regular	June 8, 1951	September 7, 1951
1953	53	Regular	May 27, 1953	August 26, 1953
1954	53	1st C.S.	May 13, 1954	August 12, 1954
1955	54	Regular	June 7, 1955	September 6, 1955
1957	55	Regular	May 23, 1957	August 22, 1957
1957	55	1st C.S.	November 12, 1957	February 11, 1958
1957	55	2nd C.S.	December 3, 1957	March 4, 1958
1959	56	Regular	May 12, 1959	August 11, 1959
1959	56	1st C.S.	June 16, 1959	September 15, 1959
1959	56	2nd C.S.	July 16, 1959	October 15, 1959
1959	56	3rd C.S.	August 6, 1959	November 5, 1959
1961	57	Regular	May 29, 1961	August 28, 1961
1961	57	1st C.S.	August 8, 1961	November 7, 1961
1961	57	2nd C.S.	August 14, 1961	November 13, 1961
1962	57	3rd C.S.	February 1, 1962	May 3, 1962
1963	58	Regular	May 24, 1963	August 23, 1963
1965	59	Regular	May 31, 1965	August 30, 1965
1966	59	1st C.S.	February 23, 1966	*
1967	60	Regular	May 29, 1967	August 28, 1967
1968	60	1st C.S.	July 3, 1968	*
1969	61	Regular	June 2, 1969	September 1, 1969
1969	61	1st C.S.	August 26, 1969	*
1969	61	2nd C.S.	September 9, 1969	December 9, 1969
1971	62	Regular	May 31, 1971	August 30, 1971
1971	62	1st C.S.	June 4, 1971	September 3, 1971
1972	62	2nd C.S.	March 30, 1972	June 29, 1972
1972	62	3rd C.S.	July 7, 1972	*
1972	62	4th C.S.	October 17, 1972	January 16, 1973
1973	63	Regular	May 28, 1973	August 27, 1973
1973	63	1st C.S.	December 20, 1973	*
1975	64	Regular	June 2, 1975	September 1, 1975
1977	65	Regular	May 30, 1977	August 29, 1977
1977	65	1st C.S.	July 21, 1977	*
1978	65	2nd C.S.	August 8, 1978	November 7, 1978
1979	66	Regular	May 28, 1979	August 27, 1979
1981	67	Regular	June 1, 1981	August 31, 1981
1981	67	1st C.S.	August 11, 1981	November 10, 1981
1982	67	2nd C.S.	May 28, 1982	*
1982	67	3rd C.S.	September 9, 1982	*
1983	68	Regular	May 30, 1983	August 29, 1983
1983	68	1st C.S.	June 25, 1983	September 23, 1983

* No legislation for which the ninety day effective date is applicable.

DISPOSITION TABLE

Showing where provisions of former articles of the Civil Statutes and the unclassified laws of the General and Special Laws of Texas are covered in the Natural Resources Code.

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
165-9, § 1	152.001	3183a, § 7	36.061
§ 2	152.003		36.063
§ 3	152.002	§ 8	36.061
§ 4	152.061		36.101
§ 5	152.011		36.131
	152.012	§ 9	36.101
§ 6	152.013		36.131
	152.014		36.171
	152.015		36.172
	152.016	§ 10	36.062
§ 7	152.017		36.101
	152.018		36.102
§ 8	152.020		36.103
	152.062	§ 11	36.132
	152.063		36.133
	152.064		36.134
§ 9	152.019		36.135
§ 10	152.101	§ 12	36.171
	152.102		36.172
	152.103	§ 13	36.136
	152.104		36.172
	152.105		36.173
	152.106	§ 14	36.016
§ 11	152.021		36.133
	152.022	§ 17	36.013
	152.023		36.015
	152.024		36.061
§ 12	152.025	§ 17a	36.051
§ 13	152.026	3954-1	---
1592a, § 1	11.013	3954-2	11.072
§ 2	31.063	3954-3	11.072
§ 3	11.013	3954-4	11.073
3183a, § 1	36.001(1)		11.074
	36.011		11.075
	36.012	5249	31.012
	36.014	5250	31.013
§ 2	36.051	5251	31.051
§ 3	36.052	5252	31.016
	36.053	5254	31.057
	36.054	5254a, § 1	31.056(a)
	36.055		to
	36.056		31.056(d)
§ 4	36.057	§ 2	31.056(e)
	36.058		to
§ 5	36.059		31.056(f)
	36.060	§ 3	31.056(g)
	36.131	5255	31.015
§ 6	36.059	5256	31.018
	36.060		

DISPOSITION TABLE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
5257	31.017	5285	23.014
	31.058	5286	23.015
	31.059	5287	23.051
	31.060		23.052
5258	31.061		23.053
	31.062	5288	—
5259	31.019	5289	23.059
5260	31.020	5290	23.053
5260a	—		23.054
5261	31.001	5291	23.053
	31.011		23.054
5262	31.052	5292	23.054
5263	31.053	5293	—
5264	31.054	5294	23.056
5265	31.055	5295	—
5266	31.055	5296	23.058
5267	31.014	5297	23.057
5268	22.011	5298	23.055
	22.012	5299	21.011
	22.013	5300	21.041
	22.014		21.042
5269	22.015	5300a, § 1	21.071
	22.016		21.073
	22.017		21.074
	22.018	§ 2	21.075
5270	22.053	§ 3	21.078
	22.054	§ 4	21.079
	22.055	§ 5	21.076
5271	22.055		21.077
	22.056	§ 6	21.072
	22.057	§ 7	21.072
	22.058	5301	21.043
	22.059	5302	21.001(3)
	22.060		21.012
	22.061		21.013
5272	22.101	5303	21.014
5273	22.061	5304	—
	22.064	5305	21.044
	22.065	5306	51.011
	22.151		51.052
5275	22.052	5307	51.012
	22.060		51.014
	22.061		51.015
	22.062		51.016
	22.063		51.017
5276	22.102	5308	51.018
	22.103	5309	51.011
	22.104	5310	51.013
5277	22.105		51.054
	22.109		51.056
5278	22.110	5311	51.052
5279	22.111		51.073
5280	22.106	5311a	51.052
	22.107		51.055
	22.108	5312	51.056
5281	22.019	5313	51.051
5282	22.051		51.056
	—		51.057
5283	23.011		51.059
	23.012		51.063
	23.016	5314	51.064
5284	23.013		

DISPOSITION TABLE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
5315	51.058	5342a	—
5316	51.065	5343	52.185
5317	51.066	5344	52.233
5318	51.067		52.236
5319	51.060		52.237
	51.061	5344a	—
	to	5344b	52.238
	51.062	5344c, § 1	52.021
5320	51.068		52.082
5321	51.341	§ 2	—
	51.342	§ 2-A	—
	51.343	5344d, § 1	52.133
5322	51.344	§ 2	52.133
	51.345	5345	52.239
	51.346	5346	52.240
5324	51.347	5347	52.241
	51.348	5348	52.221
	51.349		52.222
5325	51.350		52.224
5326	51.071		52.227
	51.072		52.234
	51.074		52.235
	53.075		52.242
	53.076		52.243
5327	51.077	5348a	—
5328	51.078	5349	52.244
5329	51.079	5349a	52.245
	51.080		52.248
	51.081	5349b	52.246
	51.082		52.247
	51.083	5349c	52.249
	51.084	5350	52.250
	51.085	5351	52.251
5330	—	5352	52.252
5331	51.121	5353	52.011
5332	51.122	5354	—
	51.124		—
	51.125	5355	52.015
5333	51.123		52.017
	51.126		52.018
	51.127	5356	52.019
5334	—		52.020
5335	—	5357	—
5336	51.128	5358	—
	51.129	5359	52.034
5337	51.130	5360	52.029
5337—1, § 1	51.304	5361	52.033
§ 2	51.305	5362	52.026
	51.306	5363	52.027
§ 3	51.307	5364	52.025
5339	52.222	5365	—
	52.223	5366	52.032
5340	52.224	5367	52.171
5341	52.225	5368	52.172
	52.226	5369	52.173
5341a	—	5370	52.174
5341b	52.228	5371	52.175
	52.229	5372	52.176
	52.231	5373	52.177
5342	52.230	5375	52.178
	52.232	5376	52.179

DISPOSITION TABLE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
5377	52.180	5382d, § 16	34.018
5378	52.181		34.019
5379	52.182	§ 17	34.019
5380	52.131	5382d—1, § 1	32.110
	52.134		34.061
	52.135		51.019
5381	52.132		52.016
5382	52.136		52.078
5382b, § 1	31.101	§ 2	—
§ 2	—	5382e, § 1	52.023
§ 3	31.102		52.024
§ 4	31.107		52.084
§ 5	31.103	§ 2	52.031
	31.104		52.090
§ 6	31.105	5382f	52.291
	31.106		52.292
§ 7	31.108		52.293
§ 7a	52.014		52.294
5282c, § 1	52.151		52.295
	52.152		52.296
§ 2	52.153	5404	51.243
5382d, § 1	34.011	5405	51.248
	34.012	5406	—
	34.013	5407	—
	34.014	5408	51.249
	34.015	5409	51.250
	34.016	5410	51.251
§ 2	34.051	5411	51.252
§ 3	34.052	5411a, § 1	51.020
	34.053	§ 2	51.020
	34.054	5412	—
§ 4	34.056	5413	51.241
	34.057		51.242
	34.060		51.244
§ 5	34.058	5414	51.245
	34.059	5415	11.011
	34.060	5415a, § 1	11.012(a)
	34.062	§ 2	11.012(b)
§ 6	34.062	§ 3	11.012(c)
	34.063		11.041
§ 7	34.101	§ 4	11.012(d)
	34.102	5415b, § 1	11.016(a)
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	61.125		62.135
	61.126		62.136
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	61.128		62.138
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§ 10	61.130	§ 9	62.092
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	61.069	§ 3	61.162
	61.070		61.164
§ 4	61.071	§ 4	61.165
§ 5	61.065		61.166
	61.066		61.167
	61.067		61.173
§ 6	61.078	§ 5	61.168
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§ 18	86.094		102.083
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§ 23	86.222		102.112
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§ 3(f)	87.133		85.057
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6024	81.053	§ 5	111.054
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	to		111.083
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6032d	81.151		111.086
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§ 23	85.011		113.052
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§ 5	35.059		191.019
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§ 6	35.059	§ 5	191.091
	35.060		191.093
§ 7	35.061	§ 6	191.092
§ 8	35.061		191.095
	35.101	§ 7	191.094
	35.131		191.096
§ 9	35.101	§ 8	191.097
	35.131	§ 9	191.053
	35.171		191.131
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§ 10	35.062		191.131
	35.101	§ 11	191.051
	35.102		191.052
	35.103		191.055
§ 11	35.132	§ 12	191.056
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	35.135	§ 15	191.132
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§ 12	35.171	§ 18	191.172
	35.172		191.173
§ 13	35.136	§ 19	191.174
	35.172	§ 20	191.132
	35.173	6145—10, § 1	182.011
§ 14	35.016	§ 2	182.012
	35.017		182.015
	35.133	§ 3	182.014
§ 14a	35.133	§ 4(a)	182.041
§ 17	35.013	§ 4(b)	182.042
	35.015	§ 4(c)	182.043
	35.061	§ 4(d)	182.044
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	181.011	§ 4(f)	182.016
	181.060	§ 4(g)	182.017
	to	§ 5	182.013
	181.016	7360	151.002
§ 2	181.012	7361	151.003
	to	7361a	151.002
	181.016		to
	181.019		151.003
§ 3	181.017	7362	151.004
§ 4	181.054	7362a	151.004
	181.055	7363	151.005
	181.102	7363.1	151.005
§ 5	181.056	7363a, § 1	151.041
§ 6	181.057		to
	181.059		151.044
§ 7	181.018		151.046
§ 8	181.051	§ 2	151.045

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Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
7363b -----	151.001	9015, § 3 -----	112.011
	151.006		112.012
	151.007	§ 4 -----	112.002
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§ 2 -----	112.001		112.032

General & Special Laws Citation	Natural Resources Code Section
41st Legis., R.S., Ch. 313, Sec. 1 -----	85.001
42nd Legis., R.S., Ch. 358, Sec. 1 -----	11.015
42nd Legis., R.S., Ch. 358, Sec. 2 -----	11.015
43rd Legis., 3rd O.S., Ch. 15, Sec. 1 -----	11.018
50th Legis., R.S., Ch. 351, Sec. 2 -----	87.134
59th Legis., R.S., Ch. 321, Sec. 3 -----	32.015
59th Legis., R.S., Ch. 355, Sec. 2 -----	89.003

DERIVATION TABLE

Showing where provisions of the Natural Resources Code were formerly covered in the Civil Statutes and in the unclassified laws of the General and Special Laws of Texas.

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11.012(c)	5415a, § 3	21.072	5300a, § 6
11.012(d)	5415a, § 4		5300a, § 7
11.013	1592a, § 1	21.073	5300a, § 1
	1592a, § 3	21.074	5300a, § 1
11.014	5421a, § 1	21.075	5300a, § 2
11.015	Acts 1931, 42nd Leg., ch. 358, § 1	21.076	5300a, § 5
	Acts 1931, 42nd Leg., ch. 358, § 2	21.077	5300a, § 5
11.016(a)	5415b, § 1	21.078	5300a, § 3
11.016(b)		21.079	5300a, § 4
to		22.011	5268
11.016(d)	5415b, § 2	22.012	5268
11.016(e)	5415b, § 3	22.013	5268
11.016(f)	5415b, § 4	22.014	5268
11.017(a)	5415b—1, § 1	22.015	5269
11.017(b)	5415b—1, § 1	22.016	5269
11.017(c)	5415b—1, § 2	22.017	5269
11.018	Acts 1934, 43rd Leg., 3rd C.S., ch. 15, § 1	22.018	5269
11.041	5415a, § 3	22.019	5281
	5421c—3, § 2	22.051	5282
11.042	5418	22.052	5275
11.043	5417	22.053	5270
11.071	5421	22.054	5270
11.072	3954—2	22.055	5270
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11.073	3954—4	22.056	5271
11.074	3954—4	22.057	5271
11.075	3954—4	22.058	5271
11.076	5419	22.059	5271
11.077	5420	22.060	5271
11.078	5420		5275
21.001(3)	5302	22.061	5271
21.011	5299		5273
21.012	5302		5275
21.013	5302	22.062	5275
21.014	5303	22.063	5275
21.041	5300	22.064	5273
21.042	5300	22.065	5273
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		22.102	5276
		22.103	5276
		22.104	5276
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		22.106	5280

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Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section	Civ.St. Article
22.107	5280	31.101	5382b, § 1
22.108	5280	31.102	5382b, § 3
22.109	5277	31.103	5382b, § 5
22.110	5278	31.104	5382b, § 5
22.111	5279	31.105	5382b, § 6
22.151	5273	31.106	5382b, § 6
23.011	5283	31.107	5382b, § 4
23.012	5283	31.108	5382b, § 7
23.013	5284	32.011 to 32.014	5421c-3, § 3
23.014	5285	32.015	Acts 1965, 59th Leg., ch. 321, § 3
23.015	5286	32.016	5421c-3, § 5
23.016	5283	32.017	5421c-3, § 5
23.051	5287	32.018	5421c-3, § 5
23.052	5287	32.019	5421c-3, § 5
23.053	5287	32.020	5421c-3, § 6
	5290	32.021	5421c-3, § 6
23.054	5291	32.022	5421c-3, § 6
	5291	32.061	5421c-3, § 4
	5292	32.062	5421c-3, § 7
23.055	5298	32.063	5421c-3, § 11
23.056	5294	32.101	5421c-3, § 4
23.057	5297	32.102	5421c-3, § 9
23.058	5296	32.103	5421c-3, § 4
23.059	5289	32.104	5421c-8
31.001	5261	32.105	5421c-3, § 12
31.011	5261	32.106	5421c-3, § 8
31.012	5249	32.107	5421c-3, § 12
31.013	5250	32.108	5421c-3, § 8
31.014	5267	32.109	5421c-3, § 8
31.015	5255		5421c-3, § 13
31.016	5252	32.110	5382d-1, § 1
31.017	5257	32.111	5421c-3, § 10
31.018	5256	33.001	5415e-1, § 2
31.019	5259	33.002	5415e-1, § 3
31.020	5260	33.003	5415e-1, § 1
31.051	5251	33.004	5415e-1, § 4
31.052	5262	33.005	5415e-1, § 18
31.053	5263	33.011	5415e-1, § 5
31.054	5264	33.012	5415e-1, § 5
31.055	5265	33.013	5415e-1, § 5
	5266	33.014	5415e-1, § 14(a)
31.056(a)		33.015	5415e-1, § 14(b)
to		33.016	5415e-1, § 14(c)
31.056(d)	5254a, § 1	33.051	5415e-1, § 6
31.056(e)		33.052	5415e-1, § 6
to		33.053	5415e-1, § 6
31.056(f)	5254a, § 2	33.054	5415e-1, § 6
31.056(g)	5254a, § 3	33.055	5415e-1, § 6
31.057	5254	33.056	5415e-1, § 6
31.058	5257	33.057	5415e-1, § 6
31.059	5257	33.058	5415e-1, § 6
31.060	5257	33.059	5415e-1, § 6
31.061	5258	33.060	5415e-1, § 6
31.062	5258	33.061	5415e-1, § 6
31.063	1592a, § 2		

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Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section	Civ.St. Article
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33.063	5415e-1, § 6	34.058	5382d, § 5
33.064	5415e-1, § 6	34.059	5382d, § 5
33.101	5415e-1, § 7(a)	34.060	5382d, § 4
33.102	5415e-1, § 7(a)		5382d, § 5
33.103	5415e-1, § 7(b)	34.061	5382d-1, § 1
33.104	5415e-1, § 7(c)	34.062	5382d, § 5
33.105	5415e-1, § 8(a)		5382d, § 6
33.106	5415e-1, § 8(b)	34.063	5382d, § 6
33.107	5415e-1, § 8(b)	34.064	5382d, § 13a
33.108	5415e-1, § 8(b)	34.101	5382d, § 7
33.109	5415e-1, § 8(b)	34.102	5382d, § 7
33.110	5415e-1, § 8(b)	34.103	5382d, § 11
33.111	5415e-1, § 9(a)	34.104	5382d, § 11
33.112	5415e-1, § 12(b)	34.105	5382d, § 8
33.113	5415e-1, § 9(a)	34.141	5382d, § 9
33.114	5415e-1, § 9(a)	34.142	5382d, § 9
33.115	5415e-1, § 9(a)	34.143	5382d, § 9
33.116	5415e-1, § 12(a)	34.144	5382d, § 9
33.117	5415e-1, § 9(a)	34.145	5382d, § 9
33.118	5415e-1, § 9(b)	34.146	5382d, § 9
33.119	5415e-1, § 10(a)	34.181	5382d, § 10
33.120	5415e-1, § 12(c)	34.182	5382d, § 10
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33.122	5415e-1, § 16	34.184	5382d, § 10
33.123		34.185	5382d, § 12
to		35.001	6077o, § 1
33.130	5415e-1, § 10(h)	35.011	6077o, § 1
33.131	5415e-1, § 10(c)	35.012	6077o, § 1
33.132	5415e-1, § 11	35.013	6077o, § 17
33.133	5415e-1, § 12(e)	35.014	6077o, § 1
33.134	5415e-1, § 16	35.015	6077o, § 17
33.171	5415e-1, § 13	35.016	6077o, § 11a
33.172	5415e-1, § 12(f)		6077o, § 14
33.173	5415e-1, § 15	35.017	6077o, § 14
33.174	5415e-1, § 15	35.051	6077o, § 2
33.175	5415e-1, § 15	35.052	
33.176	5415e-1, § 15	to	
34.002	5382d, § 15	35.056	6077o, § 3
34.011	5382d, § 1	35.057	6077o, § 4
34.012	5382d, § 1	35.058	6077o, § 4
34.013	5382d, § 1	35.059	6077o, § 5
34.014	5382d, § 1		6077o, § 6
34.015	5382d, § 1	35.060	6077o, § 5
34.016	5382d, § 1		6077o, § 6
34.017	5382d, § 16	35.061	6077o, § 7
34.018	5382d, § 16		6077o, § 8
34.019	5382d, § 16		6077o, § 17
	5382d, § 17	35.062	6077o, § 10
34.020	5382d, § 14	35.101	6077o, § 8
34.051	5382d, § 2		6077o, § 9
34.052	5382d, § 3		6077o, § 10
34.053	5382d, § 3	35.102	6077o, § 10
34.054	5382d, § 3	35.103	6077o, § 10
34.055	5382d, § 13	35.131	6077o, § 5
34.056	5382d, § 4		6077o, § 8
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	6077o, § 14	36.173 -----	3183a, § 13
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35.134 -----	6077o, § 11	51.011 -----	5306
35.135 -----	6077o, § 11		5309
35.136 -----	6077o, § 13		5421c, § 1
35.171 -----	6077o, § 9		5421c, § 2
	6077o, § 12	51.012 -----	5307
35.172 -----	6077o, § 9	51.013 -----	5310
	6077o, § 12	51.014 -----	5307
	6077o, § 13	51.015 -----	5307
35.173 -----	6077o, § 13	51.016 -----	5307
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36.011 -----	3183a, § 1	51.018 -----	5308
36.012 -----	3183a, § 1	51.019 -----	5382d—1, § 1
36.013 -----	3183a, § 17	51.020 -----	5411a
36.014 -----	3183a, § 1	51.051 -----	5313
36.015 -----	3183a, § 17	51.052 -----	5306
36.016 -----	3183a, § 14		5311
36.051 -----	3183a, § 2		5311a
	3183a, § 17a		5421c, § 4
36.052 -----	3183a, § 3	51.053 -----	5421c, § 2
36.053 -----	3183a, § 3	51.054 -----	5310
36.054 -----	3183a, § 3		5421c, § 4
36.055 -----	3183a, § 3	51.055 -----	5311a
36.056 -----	3183a, § 3	51.056 -----	5310
36.057 -----	3183a, § 4		5312
36.058 -----	3183a, § 4		5313
36.059 -----	3183a, § 5		5421c, § 4
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36.060 -----	3183a, § 5	51.058 -----	5315
	3183a, § 6	51.059 -----	5313
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	3183a, § 17	51.062 -----	5319
36.062 -----	3183a, § 10	51.063 -----	5313
36.063 -----	3183a, § 7	51.064 -----	5314
36.101 -----	3183a, § 8	51.065 -----	5316
	3183a, § 9	51.066 -----	5317
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36.102 -----	3183a, § 10	51.068 -----	5320
36.103 -----	3183a, § 10	51.069 -----	5421c, § 11
36.131 -----	3183a, § 5	51.070 -----	5421c, § 7
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36.132 -----	3183a, § 11	51.073 -----	5311
36.133 -----	3183a, § 11	51.074 -----	5326
	3183a, § 14	53.075 -----	5326
36.134 -----	3183a, § 11	53.076 -----	5326
36.135 -----	3183a, § 11	51.077 -----	5327
36.136 -----	3183a, § 13	51.078 -----	5328
36.171 -----	3183a, § 9	51.079 -----	5329
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51.084	5329	51.300	6020a, § 6
51.085	5329	51.301	6020a, § 7
51.121	5331	51.302	6020a, § 8
51.122	5332	51.303	6020a, § 9
51.123	5333	51.304	6020a, § 10
51.124	5332	51.305	5337—1, § 1
51.125	5332	51.306	5337—1, § 2
51.126	5333	51.307	5337—1, § 2
51.127	5333	51.341	5337—1, § 3
51.128	5336	51.342	5321
51.129	5336	51.343	5321
51.130	5337	51.344	5322
51.171	5421c, § 6(b)	51.345	5322
51.172	5421c, § 6(a)	51.346	5322
51.173	5421c, § 6(b)	51.347	5324
51.174	5421c, § 6(a)	51.348	5324
51.175		51.349	5324
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51.188	5421c, § 6(c)	51.351	5325
51.189	5421c, § 6(e)	52.011	5353
51.190	5421c, § 6(h)		5421c, § 8
51.191	5421c, § 6(f)		5421c—5, § 1
51.192	5421c, § 6(d)	52.012	5421c, § 8
51.193		52.013	5421c—5, § 2
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51.196	5421c, § 6(f)	52.015	5355
51.197	5421c, § 6(h)	52.016	5382d—1, § 1
51.198	5421c, § 6(f)	52.017	5355
51.199	5421c, § 6(f)	52.018	5355
51.200	5421c, § 6(g)	52.019	5356
51.201	5421c, § 6(b)	52.020	5356
51.202	5421c, § 6(f)	52.021	5344c, § 1
51.203	5421c, § 6(h)		5421c—5, § 2
51.204	5421c, § 6(b)	52.022	5421c, § 8
51.205	5421c, § 6(j)		5421c, § 10
51.241	5413	52.023	5382e, § 1
51.242	5413	52.024	5382e, § 1
51.243	5404	52.025	5364
51.244	5413	52.026	5362
51.245	5414	52.027	5363
51.246	5421c—1	52.028	5421i
51.247	5421c, § 5	52.029	5360
51.248	5405	52.030	5421c, § 11a
51.249	5408	52.031	5382e, § 2
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51.251	5410	52.033	5361
51.252	5411	52.034	5359
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51.293	6020a, § 1	52.073	5421c, § 8
51.294	6020a, § 2		5421c—5, § 1
51.295	6020a, § 5	52.074	5421c, § 8-A
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52.077	5421c, § 8-A(3)	52.225	5341
52.078	5382d-1, § 1	52.226	5341
52.079	5421c, § 8-A(4)	52.227	5348
52.080	5421c, § 8-A(6)	52.228	5341b
52.081	5421c, § 8-A(9)	52.229	5341b
52.082	5344c, § 1	52.230	5342
	5421c-5, § 2	52.231	5341b
52.083	5421c, § 8	52.232	5342
52.084	5382e, § 1	52.233	5344
52.085	5421c, § 8-A(6)	52.234	5348
52.086	5421c, § 8-A(5)	52.235	5348
52.087	5421c-5, § 2	52.236	5344
52.088	5421c, § 8	52.237	5344
	5421c, § 8-A(10)	52.238	5344b
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52.089	5421c, § 8-A(8)	52.240	5346
52.090	5382e, § 2	52.241	5347
52.091	5421c, § 11a	52.242	5348
52.092	5421c, § 8-A(14)	52.243	5348
52.093	5421c, § 8-A(14)	52.244	5349
52.094	5421c, § 8-A(14)	52.245	5349a
52.096	5421c, § 8-A(14)	52.246	5349b
52.097	5421c, § 8-A(12)	52.247	5349b
52.098	5421c, § 8-A(13)	52.248	5349a
52.099	5421c, § 8-A(11)	52.249	5349c
52.100	5421c, § 8-A(7)	52.250	5350
52.131	5380	52.251	5351
52.132	5381	52.252	5352
52.133	5344d	52.291	5382f, § 2
52.134	5380	52.292	5382f, § 1
52.135	5380	52.293	5382f, § 1
52.136	5382	52.294	5382f, § 3
52.151	5382c, § 1	52.295	5382f, § 4
52.152	5382c, § 1	52.296	5382f, § 5
52.153	5382c, § 2	53.011	5421c-7, § 1
52.171	5367	53.012	5421c-7, § 1
52.172	5368	53.013	5421c-7, § 2
52.173	5369	53.014	5421c-7, § 5
52.174	5370	53.015	5421c-7, § 2
52.175	5371	53.016	5421c-7, § 3
52.176	5372	53.017	5421c-7, § 2
52.177	5373	53.018	5421c-7, § 3
52.178	5375	53.019	5421c-7, § 4
52.179	5376	53.020	5421c-7, § 5
52.180	5377	53.021	5421c-7, § 7
52.181	5378	53.022	5421c-7, § 6
52.182	5379	53.061	5421c-10, § 1
52.183	5421c-2	53.062	5421c-10, § 2
52.184	5421c-2	53.063	5421c-10, § 2
52.185	5348	53.064	5421c-10, § 3
52.221	5348	53.065	5421c-10, § 2
52.222	5339	53.066	5421c-10, § 4
	5348	53.067	5421c-10, § 5
52.223	5339	53.068	5421c-10, § 5

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53.070	5421c-10, § 6	61.123	5415d, § 8(b)
53.071	5421c-10, § 7	61.124	5415d, § 8(b)
53.072	5421c-10, § 10	61.125	5415d, § 8(b)
53.073	5421c-10, § 8	61.126	5415d, § 8(b)
53.111	5421c-11, § 1	61.127	5415d, § 8(c)
53.112	5421c-11, § 1	61.128	5415d, § 8(d)
53.113	5421c-11, § 1	61.129	5415d, § 9
53.114	5421c-11, § 1	61.130	5415d, § 10
53.115	5421c-11, § 2	61.131	5415d, § 4
53.116	5421c-11, § 3	61.161	5415d-4, § 1
53.117	5421c-11, § 4	61.162	5415d-4, § 2
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	5415d-4, § 7	61.164	5415d-4, § 3
	5415g, § 11	61.165	5415d-4, § 4
61.011	5415d, § 1	61.166	5415d-4, § 4
61.012	5415d, § 3(c)	61.167	5415d-4, § 4
61.013	5415d, § 1	61.168	5415d-4, § 5
61.014	5415d-2	61.169	5415d-4, § 10
61.015	5415d, § 1	61.170	5415d-4, § 10A
61.016	5415d, § 3(a)	61.171	5415d-4, § 6
61.017	5415d, § 3(a)	61.172	5415d-4, § 6
61.018	5415d, § 5	61.173	5415d-4, § 4
61.019	5415d, § 6	61.174	5415d-4, § 8
61.020	5415d, § 2	61.175	5415d-4, § 5A
61.021	5415d, § 1	61.176	5415d-4, § 9
61.022	5415d, § 1	61.177	5415d-4, § 11
61.023	5415d, § 1	61.211	5415g, § 1
61.024	5415d, § 4	61.212	5415g, § 7
61.061	5415d-1, § 1(a)	61.213	5415g, § 2
61.062	5415d-1, § 1(b)	61.214	5415g, § 3
61.063	5415d-1, § 11(c)	61.215	5415g, § 6
61.064	5415d-1, § 2	61.216	5415g, § 10
61.065	5415d-1, § 5(a)	61.217	5415g, § 10
61.066	5415d-1, § 5(b)	61.218	5415g, § 10
61.067	5415d-1, § 5(c)	61.219	5415g, § 4
61.068	5415d-1, § 3		5415g, § 12A
61.069	5415d-1, § 3	61.220	5415g, § 5
61.070	5415d-1, § 3	61.221	5415g, § 9
61.071	5415d-1, § 4	61.222	5415g, § 9
61.072	5415d-1, § 7(a)	61.223	5415g, § 13
61.073	5415d-1, § 7(a)	61.224	5415g, § 14
61.074	5415d-1, § 7(b)	61.225	5415g, § 11A
61.075	5415d-1, § 7(b)	61.226	5415g, § 12
61.076	5415d-1, § 7(c)	61.227	5415g, § 8
61.077	5415d-1, § 7(d)	62.001	5415d-3, § 1
61.078	5415d-1, § 6		5415d-3, § 10
61.079	5415d-1, § 10		5415d-3, § 11
61.080	5415d-1, § 8	62.002	5415d-3, § 2
61.081	5415d-1, § 9	62.011	5415d-3, § 2
61.082	5415d-1, § 1(c)	62.012	5415d-3, § 2
61.083	5415d-1, § 12	62.013	5415d-3, § 2
		62.041	5415d-3, § 3
		62.042	5415d-3, § 3
		62.043	5415d-3, § 4

DERIVATION TABLE

Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section	Civ.St. Article
62.044	5415d-3, § 3	71.008	5421p, § 2a
62.045	5415d-3, § 3		5421p, § 2b(a)
62.046	5415d-3, § 5	71.009	5421p, § 2a
62.047	5415d-3, § 7		5421p, § 2b(b), (c)
62.048	5415d-3, § 7	71.010	5421p, § 2a
62.049	5415d-3, § 7		5421p, § 2b(d)
62.050	5415d-3, § 5	71.051	5421n, § 1
62.051	5415d-3, § 6		5421n, § 2
62.052	5415d-3, § 5	71.052	5421n, § 1
62.053	5415d-3, § 6		5421n, § 2
62.054	5415d-3, § 7	71.053	5421n, § 1
62.055	5415d-3, § 7		5421n, § 2
62.091	5415d-3, § 7	71.054	5421n, § 2
62.092	5415d-3, §§ 8, 9	71.055	5421n, § 1
62.093			5421n, § 2
to		71.056	5421n, § 3
62.100	5415d-3, § 7	71.057	5421n, § 4
62.101	5415d-3, § 11	81.001	6023
62.131	5415d-3, § 7	81.011	
62.132	5415d-3, § 7	to	
62.133	5415d-3, § 7	81.016	6030
62.134	5415d-3, § 7	81.017	6032c
62.135	5415d-3, § 7	81.018	6030
62.136	5415d-3, § 7		6049
62.137	5415d-3, § 7	81.019	6030
62.138	5415d-3, § 7	81.020	6031
63.001	5415h, § 1	81.051	6023
63.002	5415h, § 2	81.052	6023
63.003	5415h, § 3(e)	81.053	6024
63.011	5415h, § 3(a)	81.054	6023
63.012	5415h, § 3(d)	81.091	6026
63.013	5415h, § 3(b)	81.092	6028
63.014	5415h, § 3(c)	81.111	
63.015	5415h, § 6(c)	to	
63.051	5415h, § 5(a)	81.114	6032
63.052	5415h, § 6(b)	81.115	6032b
63.053	5415h, § 5(c)	81.151	
63.054	5415h, § 5(b)	to	
63.055	5415h, § 5(c)	81.156	6032d
63.056	5415h, § 7(b)	85.001(a)(1)	Acts 1929, 41st Leg., ch. 313, § 1
63.057	5415h, § 6(a)		6049c, § 20
63.091	5415h, § 4(a)		6049d, § 10
63.092	5415h, § 4(b)		
63.093	5415h, § 4(c)		6049e, § 1
63.121	5415h, § 7(a)		6049c, § 21
63.122	5415h, § 7(a)		6049d, § 13
63.151	5415h, § 8		6049e, § 19
63.152	5415h, § 8		6049c, § 23
63.181	5415h, § 9		6049c, § 23
71.001	5421p, § 1		6049c, § 18
71.002	5421p, § 1		6049e, § 10
71.003	5421p, § 2		6046
71.004	5421p, § 2		6049e, § 10
71.005	5421p, § 2		6049e, § 10
71.006	5421p, § 2		6049e, § 10
71.007	5421p, § 2		6049e, § 10
		85.043	6049e, § 10

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Natural Resources Code Section	Civ.St. Article		Natural Resources Code Section	Civ.St. Article
85.044 -----	6049e, § 10		86.001 -----	6008, § 1
85.045			86.002 -----	6008, § 2
to			86.003 -----	6008, § 4(a)
85.047 -----	6014		86.004 -----	6008, § 25
85.048 -----	6014a		86.011 -----	6008, § 3
85.049			86.012 -----	6008, § 3
to			86.041 -----	6008, § 22
85.053 -----	6049c, § 7		86.042 -----	6008, § 6
85.054 -----	6049d, § 6		86.043 -----	6008, § 5
85.055 -----	6049d, § 4		86.081 -----	6008, § 10
85.056 -----	6049d, § 6-a		86.082 -----	6008, § 11
85.057 -----	6014a		86.083 -----	6008, § 11
85.058			86.084	
to			to	
85.064 -----	6049c, § 5		86.088 -----	6008, § 12
85.121 -----	6049b, § 1		86.089 -----	6008, § 13
85.122 -----	6049b, § 1		86.090 -----	6008, § 14
85.123 -----	6049b, § 2		86.091 -----	6008, § 15
85.124 -----	6049b, § 2		86.092 -----	6008, § 15
85.125 -----	6014		86.093 -----	6008, § 17
	6049c, § 16		86.094 -----	6008, § 18
	6049d, § 12		86.095 -----	6008, § 19
	6049e, § 18		86.096 -----	6008, § 20
85.161			86.097 -----	6008, § 4(b)
to			86.141	
85.166 -----	6033		to	
85.201 -----	6029		86.144 -----	6008, § 8
85.202 -----	6029		86.145 -----	6008, § 9
85.203 -----	6014		86.181	
85.204 -----	6014a		to	
85.205 -----	6036a		86.185 -----	6008, § 7
85.206 -----	6036a		86.221 -----	6008, § 16
85.207 -----	6049e, § 17		86.222 -----	6008, § 23
85.241			86.223 -----	6008, § 23
to			86.224 -----	6008, § 23
85.243 -----	6049c, § 8		86.225 -----	6008, § 24
85.244			87.001 -----	6008a, § 1
to			87.011 -----	6008a, § 2a
85.252 -----	6049c, § 10		87.012 -----	6008a, § 4
85.253				6008a, § 6
to			87.013 -----	6008a, § 4
85.259 -----	6049c, § 11		87.014 -----	6008a, § 4
85.291			87.051	
to			to	
85.294 -----	6049c, § 12		87.054 -----	6008a, § 2
85.321 -----	6049c, § 13		87.091 -----	6008a, § 3(d)
85.322 -----	6049c, § 13		87.092 -----	6008a, § 3(a)
85.351			87.093 -----	6008a, § 3(a)
to			87.094 -----	6008a, § 3(d)
85.353 -----	6049e, § 13		87.095 -----	6008a, § 3(b)
85.381			87.096 -----	6008a, § 3(c)
to			87.097 -----	6008a, § 3(c)
85.385 -----	6036		87.131 -----	6008a, § 3(g)
85.386 -----	6049f, § 1		87.132 -----	6008a, § 3(e)
85.387 -----	6049f, § 2		87.133 -----	6008a, § 3(f)
85.388 -----	6049f, § 3			

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Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section	Civ.St. Article
87.134 -----	Acts 1947, 50th Leg., ch. 351, § 2	91.012 -----	6010
		91.013 -----	6012
		91.014 -----	6013
87.171 -----		91.015 -----	6015
to -----		91.016 -----	6016
87.173 -----	6008a, § 3(h)	91.017 -----	6006
87.174 -----	6008a, § 3(i)	91.018 -----	6006
87.211 -----	6008a—1	91.051 -----	6066b, § 1
87.241 -----	6008a, § 5	91.052 -----	6066b, § 2
87.242 -----	6008a, § 5	91.053 -----	
88.001 -----	6049g, § 1	to -----	
88.011 -----	6049g, § 8	91.056 -----	6066b, § 4a
88.012 -----	6049g, § 8c	91.057 -----	6066b, § 4b
88.013 -----	6049g, § 8a	91.058 -----	
88.051 -----	6049g, § 7a	to -----	
88.052 -----	6049g, § 2	91.062 -----	6066b, § 5
88.053 -----	6049g, § 3	91.101 -----	
88.054 -----	6049g, § 4	to -----	
88.055 -----	6049g, § 7	91.108 -----	6029a
88.056 -----	6049g, § 6	91.141 -----	6034
88.091 -----	6049g, § 5	91.142 -----	6035
88.092 -----	6049g, § 5	91.143 -----	6036c
	6049g, § 5a	101.001 -----	6008b, § 1
88.093 -----	6049g, § 5b	101.002 -----	6008b, § 1
88.094 -----	6049g, § 7b	101.003 -----	6008b, § 4
88.131 -----	6049g, § 10	101.004 -----	6008b, § 5
88.132 -----	6049g, § 10a	101.011 -----	6008b, § 1
88.133 -----	6049g, § 9	101.012 -----	6008b, § 1
88.134 -----	6049g, § 9	101.013 -----	6008b, § 1
89.001 -----	6005, § 13	101.014 -----	6008b, § 1
89.002 -----	6005, § 1	101.015 -----	6008b, § 1
89.003 -----	Acts 1965, 59th Leg., ch. 355, § 2	101.016 -----	6008b, § 1
			6008b, § 2
89.011 -----	6005, § 2	101.017 -----	6008b, § 1
89.012 -----	6005, § 3	101.018 -----	6008b, § 1
89.013 -----	6005, § 4	101.051 -----	6008b, § 2
89.041 -----	6005, § 7(a)	101.052 -----	6008b, § 2
89.042 -----	6005, § 7(b)	102.001 -----	6008c, § 1
89.043 -----	6005, § 8(a)	102.002 -----	6008c, § 1
89.044 -----	6005, § 8(b)		6008c, § 2(a)
89.045 -----	6005, § 8(b)	102.003 -----	6008c, § 2(f)
89.081 -----	6005, § 6	102.004 -----	6008c, § 2(h)
89.082 -----	6005, § 5	102.011 -----	
89.083 -----	6005, § 9	to -----	
89.084 -----	6005, § 10	102.014 -----	6008c, § 2(a)
89.121 -----	6005, § 11	102.015 -----	6008c, § 2(b)
89.122 -----	6005, § 12	102.016 -----	6008c, § 2(c)
90.001 -----	6008—1, § 1	102.017 -----	6008c, § 2(d)
90.002 -----	6008—1, § 1	102.018 -----	6008c, § 2(a)
90.003 -----	6008—1, § 5	102.051 -----	
90.004 -----	6008—1, § 1	to -----	
	6008—1, § 4	102.053 -----	6008c, § 2(d)
90.005 -----	6008—1, § 3	102.081 -----	
90.006 -----	6008—1, § 4	to -----	
90.007 -----	6008—1, § 2	102.083 -----	6008c, § 2(e)
91.011 -----	6004	102.111 -----	6008c, § 2(g)

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Natural Resources Code Section	Civ.St. Article		Natural Resources Code Section	Civ.St. Article
102.112 -----	6008c, § 2(g)		111.097 -----	6049a, § 8bb
103.001 -----	6066c, § 1		111.131 -----	6049a, § 6a
103.002 -----	6066c, § 1		111.132 -----	6049a, § 4
103.003 -----	6066c, § 2		111.133 -----	6049a, § 9
103.041 -----			111.134 -----	6038
to				6049a, § 10
103.046 -----	6066c, § 1		111.135 -----	6042
111.001(2) -----	6049a, § 1		111.136 -----	6049a, § 12
111.002 -----	6018		111.137 -----	6049a, § 7
111.003 -----	6018		111.138 -----	6043
111.004 -----	6049a, § 8c		111.139 -----	6043
111.011 -----	6019			6044
111.012 -----	6042		111.140 -----	6049a, § 6
111.013 -----	6019		111.141 -----	6041
111.014 -----	6043		111.142 -----	6045
111.015 -----	6048		111.181 -----	
111.016 -----			to	
to			111.186 -----	6049a, § 6a
111.018 -----	6045		111.187 -----	6039
111.019 -----	6022		111.188 -----	
111.0191 -----	6022		to	
111.0192 -----	6018		111.190 -----	6049a, § 6a
111.0193 -----	6018		111.221 -----	6049a, § 10
111.020 -----	6020		111.222 -----	
	6021		to	
	6022		111.226 -----	6049a, § 11f
111.021 -----	6022		111.227 -----	6049a, § 11h
111.022 -----	6021		111.261 -----	6047
	6022		111.262 -----	6047
111.023 -----	6040		111.263 -----	6049a, § 11
111.024 -----	6045		111.301 -----	6018
111.025 -----	6049a, § 6a		111.302 -----	6023
111.051 -----	6049a, § 1		111.303 -----	Acts 1977, 65th Leg., ch. 95, § 5
111.052 -----	6049a, § 2			
111.053 -----	6049a, § 3		111.304 -----	6019
111.054 -----	6049a, § 5		111.305 -----	6018
111.081 -----	6049a, § 8			6023
	6049a, § 8a		112.001 -----	9015, § 1
	6049a, § 8aa			9015, § 2
	6049a, § 8aaa		112.002 -----	9015, § 4
111.082 -----	6049a, § 8a		112.011 -----	9015, § 3
111.083 -----	6049a, § 8a		112.012 -----	9015, § 3
111.084 -----	6049a, § 8aaa		112.031 -----	9015, § 5
111.085 -----	6049a, § 8aa		112.032 -----	9015, § 5
111.086 -----	6049a, § 8		113.001 -----	6066d, § 1
	6049a, § 8aa		113.002 -----	6066d, § 2
111.087 -----	6049a, § 8		113.003 -----	6066d, § 3
111.088 -----	6049a, § 8		113.011 -----	
111.089 -----	6049a, § 11g		to	
111.090 -----	6049a, § 8b		113.014 -----	6066d, § 4
111.091 -----	6049a, § 11d		113.015 -----	6066d, § 14
111.092 -----	6049a, § 11e		113.051 -----	
111.093 -----	6049a, § 11a		to	
111.094 -----	6049a, § 11b		113.053 -----	6066d, § 3
111.095 -----	6049a, § 11c		113.081 -----	6066d, § 5
111.096 -----	6049a, § 11dd			

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Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section	Civ.St. Article
113.082	6066d, § 6	131.042	5920—10, § 19(a)
113.083	6066d, § 7	131.043	5920—10, § 19(b)
113.084		131.044	5920—10, § 19(c)
to		131.045	5920—10, § 19(d)
113.090	6066d, § 9	131.046	5920—10, § 19(e)
113.091	6066d, § 21	131.047	5920—10, § 18
113.092	6066d, § 9	131.048	5920—10, § 24
113.093	6066d, § 9	131.101	5920—10, § 10
113.094	6066d, § 10	131.102	5920—10, § 11
113.095	6066d, § 8	131.131	5920—10, § 8(a)
113.096	6066d, § 23	131.132	5920—10, § 8(c)
113.097	6066d, § 24	131.133	5920—10, § 8(e)
113.098	6066d, § 26	131.134	5920—10, § 8(g)
113.099	6066d, § 27		5920—10, § 8(h)
113.131	6066d, § 11	131.135	5920—10, § 8(c)
113.132	6066d, § 3		5920—10, § 8(d)
113.133	6066d, § 11	131.136	5920—10, § 12(a)
113.161	6066d, § 15	131.137	5920—10, § 8(k)
113.162	6066d, § 16	131.138	5920—10, § 8(i)
113.163	6066d, § 17	131.139	5920—10, § 8(j)
113.164	6066d, § 18	131.140	5920—10, § 12(a)
113.165	6066d, § 19		5920—10, § 12(b)
113.166	6066d, § 20	131.141	5920—10, § 12(a)
113.201	6066d, § 12	131.142	5920—10, § 8(b)
113.202	6066d, § 14	131.143	5920—10, § 8(f)
113.203	6066d, § 14	131.144	
113.231	6066d, § 22	to	
113.232	6066d, § 25	131.158	5920—10, § 15
113.233	6066d, § 28	131.159	
113.234	6066d, § 29	to	
131.001	5920—10, § 1	131.161	5920—10, § 16(a)
131.002	5920—10, § 2	131.162	5920—10, § 16(b)
131.003	5920—10, § 3	131.163	5920—10, § 16(c)
131.004	5920—10, § 4	131.164	5920—10, § 16(d)
131.005	5920—10, § 4	131.165	5920—10, § 17(a)
131.006	5920—10, § 5	131.166	5920—10, § 17(b)
131.021	5920—10, § 6	131.201	5920—10, § 14(a)
131.022	5920—10, § 6	131.202	5920—10, § 14(a)
131.023	5920—10, § 6	131.203	5920—10, § 14(b)
131.024	5920—10, § 7(e)	131.204	5920—10, § 14(c)
131.025	5920—10, § 6	131.205	5920—10, § 14(d)
131.026	5920—10, § 7(b)		5920—10, § 14(e)
131.027	5920—10, § 7(a)	131.206	5920—10, § 14(f)
131.028	5920—10, § 7(a)	131.207	5920—10, § 6
131.029	5920—10, § 7(a)	131.208	5920—10, § 23(a)
131.030	5920—10, § 7(a)	131.209	5920—10, § 23(a)
131.031	5920—10, § 7(a)	131.210	5920—10, § 23(b)
131.032	5920—10, § 7(c)	131.211	5920—10, § 23(c)
131.033	5920—10, § 7(d)	131.212	5920—10, § 23(d)
131.034	5920—10, § 9	131.213	5920—10, § 23(e)
131.035	5920—10, § 13(a)	131.214	5920—10, § 23(f)
131.036	5920—10, § 13(b)	131.231	5920—10, § 6
131.037	5920—10, § 13(b)		5920—10, § 22(a)
131.038	5920—10, § 13(c)	131.232	5920—10, § 25
131.039	5920—10, § 13(d)	131.233	5920—10, § 22(b)
131.040	5920—10, § 13(e)	131.234	5920—10, § 22(c)
131.041	5920—10, § 13(f)	131.261	5920—10, § 20(a)

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Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section	Civ.St. Article
131.262	5920—10, § 20(b)	152.018	165—9, § 7
131.263	5920—10, § 20(c)	152.019	165—9, § 9
131.264	5920—10, § 20(d)	152.020	165—9, § 8(a)
131.265	5920—10, § 20(e)	152.021	165—9, § 11
131.266	5920—10, § 21(a)	152.022	165—9, § 11
131.267	5920—10, § 21(b)	152.023	165—9, § 11
131.268	5920—10, § 21(c)	152.024	165—9, § 11
131.269	5920—10, § 21(d)	152.025	165—9, § 12
131.270	5920—10, § 21(e)	152.026	165—9, § 13
132.001	5920—1	152.061	165—9, § 4
132.002	5920—1	152.062	165—9, § 8(a)
132.003	5920—2(a)	152.063	165—9, § 8(a)
132.004	5920—2(b)	152.064	165—9, § 8(b)
132.005	5920—2(b)	152.101	165—9, § 10
132.006	5920—2(b)	152.102	165—9, § 10
132.007	5920—3	152.103	165—9, § 10
132.008	5920—4	152.104	165—9, § 10
141.001	5421s, § 1	152.105	165—9, § 10
141.002	5421s, § 2	152.106	165—9, § 10
141.003	5421s, § 3	161.001	5421m, § 14
141.011	5421s, § 4(a)	161.011	5421m, § 2
141.012	5421s, § 4(b)	161.012	5421m, § 2(B)
141.071	5421s, § 5(a)	161.013	5421m, § 25
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TITLE 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

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§ 1.001. Purpose of Code

(a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in Chapter 448, Acts of the 58th Legislature, Regular Session, 1963 (Article 5429b-1, Vernon's Texas Civil Statutes). The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to

make the general and permanent natural resources law more accessible and understandable by:

- (1) rearranging the statutes into a more logical order;
- (2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;
- (3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and
- (4) restating the law in modern American English to the greatest extent possible.

[Acts 1977, 65th Leg., p. 2347, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 1.002. Construction of Code

The Code Construction Act (Article 5429b-2, Vernon's Texas Civil Statutes) applies to the construction of each provision in this code, except as otherwise expressly provided by this code.

[Acts 1977, 65th Leg., p. 2347, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 11.001. Definitions

In this chapter:

- (1) "State" means the State of Texas.
- (2) "Land office" means the General Land Office.
- (3) "Commissioner" means the Commissioner of the General Land Office.

[Acts 1977, 65th Leg., p. 2349, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 11.002 to 11.010 reserved for expansion]

SUBCHAPTER B. TERRITORY AND BOUNDARIES OF THE STATE

§ 11.011. Vacant and Unappropriated Land

So that the law relating to the public domain may be brought together, the following extract is taken from the joint resolutions of the Congress of the United States relating to the annexation of Texas to the United States, which was approved June 23, 1845: "Said State, when admitted into the Union, . . . shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct. . . ."

[Acts 1977, 65th Leg., p. 2349, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.012. Gulfward Boundary of Texas

(a) The gulfward boundary of the State of Texas is the boundary determined in and pursuant to the decision of the United States Supreme Court in *Texas v. Louisiana*, 426 U.S. 465 (1976).

(b) The State of Texas has full sovereignty over the water, the beds and shores, and the arms of the Gulf of Mexico within its boundaries as provided in Subsection (a) of this section, subject only to the right of the United States to regulate foreign and interstate commerce under Article I, Section 8 of the United States Constitution, and the power of the United States over admiralty and maritime jurisdiction under Article III, Section 2 of the United States Constitution.

(c) The State of Texas owns the water and the beds and shores of the Gulf of Mexico and the arms of the Gulf of Mexico within the boundaries provided in this section, including all land which is covered by the Gulf of Mexico and the arms of the Gulf of Mexico either at low tide or high tide.

(d) None of the provisions of this section may be construed to relinquish any dominion, sovereignty, territory, property, or rights of the State of Texas previously held by the state.

[Acts 1977, 65th Leg., p. 2349, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.013. Gulfward Boundaries of Counties, Cities, Towns, or Villages

(a) The gulfward boundary of each county located on the coastline of the Gulf of Mexico is the Three Marine League line as determined by the United States Supreme Court.

(b) The area in the extended boundaries of the counties as provided in this section becomes a part of the public free school land and is subject to the constitutional and statutory provisions of this state pertaining to the use, distribution, sale, and lease of public free school land in this state.

(c) The gulfward boundaries of any city, town, or village created and operating under the general laws of the State of Texas shall not be established or extended by incorporation or annexation more than 5,280 feet gulfward beyond the coastline, and any inclusion of territory in any such city, town, or village more than 5,280 feet gulfward beyond the coastline is void. The term "coastline" as used in this subsection means the line of mean low tide along that portion of the coast which is in direct contact with the open Gulf of Mexico. The term "city, town, or village created and operating under the general laws of the State of Texas" shall not include any city operating under a home-rule charter.

If any such general-law city, town, or village has heretofore been established by incorporation or attempted incorporation more than 5,280 feet gulfward beyond the coastline, the corporate existence of such general-law city, town, or village is in all things validated, ratified, approved, and confirmed.

The boundaries of such general-law city, town, or village, including the gulfward boundaries to the extent of 5,280 feet gulfward beyond the coastline, are in all things validated, ratified, approved, and confirmed and shall not be held invalid by reason of the inclusion of more territory than is expressly authorized in Article 971, Revised Civil Statutes of Texas, 1925, as amended, or by reason of the inclusion of territory other than that which is intended to be used for strictly town or city purposes as required by Article 1134 of the Revised Civil Statutes of Texas, 1925, as amended, or by reason of not constituting a city, town, or village.

Neither this Act nor the general laws nor the special laws of the state shall have the effect of validating, ratifying, approving, or confirming the inclusion of territory in any such general-law city,

town, or village more than 5,280 feet gulfward beyond the coastline.

If for any reason it should be determined by any court of competent jurisdiction that any such general-law city, town, or village has heretofore been incorporated in violation of the laws of the state in effect as of the date of such incorporation or is invalid, the corporate boundaries of any such general-law city, town, or village shall be revised and reformed to exclude all territory more than 5,280 feet gulfward of the coastline.

[Acts 1977, 65th Leg., p. 2349, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2165, ch. 828, § 1, eff. June 14, 1979.]

Sections 2 and 3 of the 1979 amendatory act provided:

"Sec. 2. If any provision of this Act or its application to any person or circumstance is held to be invalid for any reason, the invalidity does not affect any other provision or application 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.

"Sec. 3. This Act applies to any litigation pending on the date this Act takes effect which questions the validity of the incorporation, boundaries, or governmental proceedings or acts of any city, town, or village and shall be applied thereto and determinative thereof."

§ 11.0131. Jurisdiction of Home-Rule Cities Over Submerged Lands

(a) In this section:

(1) "Coastline" has the meaning assigned by Section 11.013(c) of this code.

(2) "State-owned submerged lands" means the state-owned submerged lands described by Section 11.012 of this code.

(b) The boundary of a home-rule city may not extend into the gulf outside of an area that is enclosed by:

(1) for home-rule cities which have not prior to May 1, 1983, annexed gulfward from the coastline:

(A) drawing a straight line connecting the two most remote points on the part of the coastline located in the city on June 1, 1983, the distance to be measured along the coastline;

(B) drawing straight lines that extend gulfward for one marine league from each of the two ends of the line drawn under Paragraph (A) of Subdivision (1) of this subsection and that are perpendicular to the line drawn under Paragraph (A); and

(C) drawing a straight line connecting the two gulfward ends of the lines drawn under Paragraph (B) of Subdivision (1) of this subsection; or

(2) for home-rule cities which have, prior to May 1, 1983, annexed no farther than one marine league gulfward from the coastline:

(A) drawing a straight line that connects the two most remote points on the part of the coastline located in the city on June 1, 1983, and

that extends through those two points as far as necessary to draw the lines described by Paragraph (B) of Subdivision (2) of this subsection;

(B) drawing two straight lines that extend gulfward for one marine league, that are perpendicular to the line drawn under Paragraph (A) of Subdivision (2) of this subsection, and that each extend through one of the two most remote points from the coastline on the boundary lines extending gulfward from the coastline;

(C) drawing a straight line connecting the two gulfward ends of the lines drawn under Paragraph (B) of Subdivision (2) of this subsection; or

(3) for home-rule cities which have, prior to May 1, 1983, annexed farther than one marine league gulfward from the coastline:

(A) drawing lines following the two current boundary lines extending gulfward from the coastline for a distance of one marine league;

(B) drawing a straight line connecting the two gulfward ends of the lines drawn under Paragraph (A) of Subdivision (3) of this subsection.

(c) A contract or agreement by which a home-rule city purports to pledge, directly or indirectly, taxes or other revenue from or attributable to state-owned submerged lands or other lands located outside the area described by Subsection (b) of this section does not create an enforceable right to prevent the reformation of the city's boundary under Subsection (d) of this section.

(d) The boundary of a home-rule city is void to the extent that it violates Subsection (b) of this section, and the boundary is reformed on the effective date of this Act to exclude the territory situated outside the area described by Subsection (b) of this section.

(e) A home-rule city may create industrial districts in the area that is outside the city limits and that is located in an area formed in the manner prescribed by Subsection (b) of this section except that the lines drawn under Paragraph (B) of Subdivision (1), Paragraph (B) of Subdivision (2) or Paragraph (A) of Subdivision (3) of Subsection (b) may be extended for no more than five statute miles instead of one marine league. The governing body of such city shall have the right, power, and authority to designate the area described as an industrial district, as the term is customarily used, and to treat such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any city is the right and power to enter into contracts or agreements with the owner(s) or lessee(s) of land in such industrial district upon such terms and considerations as the parties might deem appropriate. The city shall have no authority to

regulate oil and gas exploration, production, and transportation operations in an industrial district established pursuant to this Act, but in consideration of such relinquishment and the relinquishment of other rights under Section 5, Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), the city is expressly authorized to require payments of a property owner or lessee(s) in such industrial district in an amount not to exceed 35 percent of the revenue that would be produced if the city imposed a property tax in the industrial district. Nothing herein shall prohibit a city and property owner or lessee(s) from agreement by contract for payments in a lesser amount.

[Acts 1981, 67th Leg., p. 3057, ch. 803, § 1, eff. Aug. 31, 1981. Amended by Acts 1983, 68th Leg., p. 3134, ch. 538, § 1, eff. June 19, 1983.]

Section 2 of the 1981 Act provides:

"This Act does not affect an annexation that was completed before the effective date of this Act or a contract or agreement that is in effect on the effective date of this Act."

Section 2 of the 1983 amendatory act provides:

"The reformation of a city's boundaries under Section 11.0131, Natural Resources Code, as amended by this Act, does not affect the authority of a city to collect any city taxes for any year preceding and including, prorated, the year of the effective date of this Act on an area that is removed from the city by the reformation of boundaries if, on May 1, 1983, the legality of the annexation or the imposition of the taxes was involved in litigation and the validity of the annexation is upheld in a final, nonappealable judgment in such litigation."

§ 11.014. Land Acquired From Oklahoma

(a) Land acquired by the state in Oklahoma v. Texas, 272 U.S. 21 (1926) and subsequent orders of the United States Supreme Court relating to that case, is incorporated into the counties which are adjacent to the land, and the north and south lines of the adjacent counties, Lipscomb, Hemphill, Wheeler, Collingsworth, and Childress, are extended east to the 100th degree of west longitude as it is fixed in the final judgment.

(b) The land acquired from Oklahoma shall become a part of the respective counties as though it were originally included in each county for governmental purposes and shall be assessed for taxes and have taxes collected under the provisions of existing law.

[Acts 1977, 65th Leg., p. 2350, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.015. Extension of Texas-New Mexico Boundary

(a) The boundary lines of all counties in the Texas Panhandle that border on the New Mexico boundary line are extended by extending the north and south lines of certain counties west to the Texas-New Mexico line, which was established by the survey of John H. Clark in 1859 and later retraced to completion on September 26, 1911, by the Boundary Commission composed of Francis M. Cockrell and Sam

R. Scott, under authority of S.J.R. No. 124, of the 61st Congress, Third Session.

(b) The boundary line is referred to as the 103rd Meridian and is described as follows:

Beginning at the point where the one hundred and third degree of longitude west from Greenwich intersects the parallel of thirty-six degrees and thirty Minutes North latitude, as determined and fixed by John H. Clark, the Commissioner on the part of the United States in the years eighteen hundred and fifty-nine and eighteen hundred and sixty; thence South with the line run by said Clark for the said one hundred and third degree of longitude to the Thirty-second parallel of North latitude to the point marked by said Clark as the Southeast corner of New Mexico; and thence West with the thirty-second degree of North latitude as determined by said Clark to the Rio Grande.

(c) Copies of the deeds certified by the custodian of records in each of the counties in New Mexico in which the land is located and other instruments of title are admissible as evidence in suits filed in this state to the same extent as the original deeds or certified copies of them.

(d) The county clerk of each of the counties in Texas in which the land is now located may file the certified copies of deeds and other instruments affecting title in the same manner as the original deeds could have been filed.

[Acts 1977, 65th Leg., p. 2350, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.016. Land Acquired From Mexico in 1933

(a) The State of Texas recognizes the provisions of 54 Stat. 21 (1940) and accepts as part of its territory and assumes civil and criminal jurisdiction over all of certain parcels or tracts of land lying adjacent to the territory of the State of Texas which were acquired by the United States under a convention between the United States of America and the United Mexican States signed February 1, 1933.

(b) The parcels and tracts of land acquired by the state constitute a part of the respective counties within whose boundaries they are located by extending the county boundaries to the Rio Grande and are subject to the civil and criminal jurisdiction of these counties.

(c) Any parcels or tracts, parts of which are located in two separate counties, shall be surveyed by the county surveyors of both counties, who shall determine the portion of the land located in their respective counties and shall file the field notes of the land in their offices together with a map of the parcels or tracts in the map records of the county.

(d) For the purpose of determining the boundaries, the boundary lines of the parcels and tracts established by the American Section of the Interna-

tional Boundary Commission, United States and Mexico, shall be accepted as the true boundaries.

(e) Any parcels or tracts of land that are adjacent to or contiguous to a water improvement district or a conservation and reclamation district may be included within the district by a written contract entered into between the owner of the land and the board of directors of the district. The contract shall specifically describe the land to be included in the district, the character of water service to be furnished to the land, and the terms and conditions on which the land is to be included in the district and shall be acknowledged in the manner required for the acknowledgment of deeds and recorded in the deed records of the county in which the land is located.

(f) None of the provisions of this section may be construed to affect the ownership of the land.

[Acts 1977, 65th Leg., p. 2350, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.017. Chamizal Area

(a) The State of Texas accepts as part of its territory and assumes civil and criminal jurisdiction over the tract of land lying adjacent to the State of Texas which was acquired by the United States of America from the United Mexican States under the Convention for the Solution of the Problem of the Chamizal, signed August 29, 1963, and ceded to Texas by Act of Congress.

(b) The territory shall be a part of El Paso County.

(c) None of the provisions of this section affect the ownership of the land.

[Acts 1977, 65th Leg., p. 2351, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.018. Cession of Certain El Paso Land

(a) To facilitate the project for rectification of the Rio Grande in the El Paso-Juarez Valley under the convention between the United States of America and the United Mexican States signed February 1, 1933, without cost to the state, all right, title, and interest of the State of Texas in and to the bed and banks of the Rio Grande in El Paso County and Hudspeth County which may be necessary or expedient in the construction of the project is ceded to the United States of America.

(b) This cession is made on the express condition that the State of Texas retain concurrent jurisdiction with the United States of America over every portion of land ceded which remains within the territorial limits of the United States after the project is completed so that process may be executed in the same manner and with the same effect as before the cession took place.

(c) None of the provisions of this section may be construed as a cession or relinquishment of any rights which the State of Texas, its citizens, or any property owners have in the water of the Rio Grande, its use, or access to it.

[Acts 1977, 65th Leg., p. 2351, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 11.019 to 11.040 reserved for expansion]

SUBCHAPTER C. SPECIAL FUNDS

§ 11.041. Permanent School Fund

(a) In addition to land and minerals granted to the permanent school fund under the constitution and other laws of this state, the permanent school fund shall include:

- (1) the mineral estate in river beds and channels;
- (2) the mineral estate in areas within tidewater limits, including islands, lakes, bays, and the bed of the sea which belong to the state; and
- (3) the arms and the beds and shores of the Gulf of Mexico within the boundary of Texas.

(b) The land and minerals dedicated to the permanent school fund shall be managed as provided by law.

[Acts 1977, 65th Leg., p. 2352, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.042. Asylum Fund

The 400,000 acres of land set apart for the various asylums in equal portions of 100,000 acres for each by act of the legislature, approved August 30, 1856, is recognized and set apart to provide a permanent fund for the support, maintenance, and improvement of the asylums.

[Acts 1977, 65th Leg., p. 2352, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.043. University Fund

After payment of the amount due to the permanent school fund for proceeds from the sale of the portion of the public land set aside for payment of the public debt by act of the legislature in 1879 and payment directed to be made to the permanent school and university funds by act of the legislature in 1883, the remainder of the land not to exceed two million acres or the proceeds from their sale shall be divided in half and one of the halves shall constitute a permanent endowment fund for The University of Texas System.

[Acts 1977, 65th Leg., p. 2352, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 11.044 to 11.070 reserved for expansion]

SUBCHAPTER D. REGULATION OF THE
PUBLIC DOMAIN

§ 11.071. Recovery of Value of Minerals and
Timber

(a) At least semiannually, the commissioner and the county attorney of each county shall report to the attorney general the name and address of each person who has taken any minerals or other property of value from public land or who has cut, used, destroyed, sold, or otherwise appropriated any timber from public land and shall report any other data within their knowledge. The county attorneys also shall assist the attorney general relating to these matters in any manner he requests.

(b) The attorney general shall file suit in any county in which all or part of the injury occurred or in the county in which the defendant resides to recover the value of the property, or with the consent of the governor, the attorney general may compromise and settle any of these liabilities with or without suit.

(c) The attorney general shall pay all amounts collected or received by him to the permanent funds to which they belong.

(d) From amounts recovered by suit, the attorney general shall receive a fee of 10 percent and the county attorney shall receive a fee of five percent, and from amounts recovered by compromise, the attorney general and county attorney shall each receive one-half of the fees to be taxed against the defendant as costs. No county attorney may receive compensation from cases not reported by him to the attorney general.

[Acts 1977, 65th Leg., p. 2352, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.072. Fences With and Without Gates

(a) A person who has used any of the pasture land by joining fences or otherwise and who builds or maintains more than three miles lineal measure of fences running in the same general direction without a gate in it shall be fined not less than \$200 nor more than \$1,000.

(b) The gate in the fence described in Subsection (a) of this section shall be at least 10 feet wide and shall not be locked or kept closed so that it obstructs free ingress or egress.

(c) The provisions of this section do not apply to persons who have previously settled on land not their own, if the enclosure is 200 acres or less and if the principal pursuit of the person on the land is agriculture.

[Acts 1977, 65th Leg., p. 2353, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.073. Definition of Fencing

In Sections 11.074 and 11.075 of this code, "fencing" means the erection of any structure of wood, wire, wood and wire, or any other material, whether it encloses land on all sides or only one or more sides, which is intended to prevent the passage of cattle, horses, mules, sheep, goats, or hogs.

[Acts 1977, 65th Leg., p. 2353, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.074. Herding and Line-Riding

(a) No owner of stock, manager, agent, employee, or servant may fence, use, occupy, or appropriate by herding or line-riding any portion of the public land of the state or land which belongs to the public schools or asylums unless he obtains a lease for the land from the proper authority.

(b) Any owner of stock or his manager, agent, employee, or servant who fences, uses, occupies, or appropriates by herding or line-riding any portion of the land covered by Subsection (a) of this section without a lease for the land, on conviction, shall be fined not less than \$100 nor more than \$1,000 and confined in the county jail for not less than three months nor more than two years. Each day for which a violation continues constitutes a separate offense.

(c) Prosecution under this section may take place in the county in which a portion of the land is located or to which the county may be attached for judicial purposes or in Travis County.

[Acts 1977, 65th Leg., p. 2353, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.075. Appropriation of Land by Fencing

(a) Unless a lease for the land is obtained, any appropriation of public land of the state or land which belongs to the public schools and asylums by fencing or by enclosures consisting partly of fencing and partly of natural obstacles or impediments to the passage of livestock is an unlawful appropriation of land which is punishable by the penalty provided in Subsection (b) of Section 11.074 of this code.

(b) Each day that the violation continues constitutes a separate offense.

[Acts 1977, 65th Leg., p. 2353, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.076. Unlawful Enclosures

(a) If the governor is credibly informed that any portion of the public land or the land which belongs to any of the special land funds has been enclosed or that fences have been erected on the land in violation of law, he may direct the attorney general to institute suit in the name of the state for the recovery of the land, damages, and fees.

(b) The fee for the attorney general may not be less than \$10 if the amount recovered is less than \$100, but if the amount of recovery is over \$100, the fee shall be 10 percent paid by the defendant for the use and occupancy of the land and the removal of the enclosure and fences.

(c) The damages may not be less than five cents an acre a year for the period of occupancy.

(d) In a suit brought under this section, the court shall issue a writ of sequestration directed to any sheriff in the state requiring him to take into actual custody the land and any property on the land which belongs to the person who is unlawfully occupying the land and to hold the land and other property until the court issues further orders. The writ may be executed by the sheriff to whom it is delivered, and he shall proceed to execute the writ.

(e) The defendant in the suit may replevy the property as provided in other cases by executing the bond required by law.

(f) An appeal from a suit brought under this section has precedence over other cases.

(g) If judgment is recovered by the state in the suit, the court shall order the enclosure or fences removed and shall charge the costs of the suit to the defendant. Property on the land which belongs to the defendant and which is not exempt from execution may be used to pay costs and damages in addition to the personal liability of the defendant.

[Acts 1977, 65th Leg., p. 2353, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2644, ch. 707, § 4(32), eff. Aug. 31, 1981.]

§ 11.077. Suit Against Adverse Claimant

If any public land is held, occupied, or claimed adversely to the state or to any fund of the state by any person or if land is forfeited to the state for any reason, the attorney general shall file suit for the land, for rent on the land, and to recover damages to the land.

[Acts 1977, 65th Leg., p. 2354, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 11.078. Venue

A suit brought under the provisions of Section 11.076 or Section 11.077 of this code shall be brought in the county in which the land or any part of the land is located.

[Acts 1977, 65th Leg., p. 2354, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBTITLE B. SURVEYS AND SURVEYORS

CHAPTER 21. SURVEYS AND FIELD NOTES

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

21.001. Definitions.

SUBCHAPTER B. SURVEYS

Sec.

- 21.011. Surveys of Public Land.
- 21.012. Surveys on Navigable Streams.
- 21.013. Surveys Not on a Navigable Stream.
- 21.014. Survey for Division Line.

SUBCHAPTER C. FIELD NOTES

- 21.041. Field Notes of a Survey of Public Land.
- 21.042. Surveyor's Certification.
- 21.043. Lost Field Notes.
- 21.044. Incorrect Field Notes.

SUBCHAPTER D. TEXAS CO-ORDINATE SYSTEM

- 21.071. Adoption of Co-Ordinate System.
- 21.072. Purpose and Limitations of Co-Ordinate System.
- 21.073. Division of State into Zones.
- 21.074. Area Within Zones.
- 21.075. Zone Names in Land Description.
- 21.076. Co-Ordinate System Definitions.
- 21.077. Unit of Measurement.
- 21.078. Terms "X Co-Ordinate" and "Y Co-Ordinate".
- 21.079. Land in More Than One Zone.

SUBCHAPTER A. GENERAL PROVISIONS

§ 21.001. Definitions

In this chapter:

- (1) "Commissioner" means the Commissioner of the General Land Office.
- (2) "Land office" means the General Land Office.
- (3) "Navigable stream" means a stream which retains an average width of 30 feet from the mouth up.

[Acts 1977, 65th Leg., p. 2355, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 21.002 to 21.010 reserved for expansion]

SUBCHAPTER B. SURVEYS

§ 21.011. Surveys of Public Land

Each survey of public land shall be made under authority of law and by a surveyor duly appointed, elected, or licensed and qualified.

[Acts 1977, 65th Leg., p. 2355, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.012. Surveys on Navigable Streams

(a) If the circumstances of the lines previously surveyed under the law will permit, land surveyed for individuals, lying on a navigable stream, shall front one-half of the square on the stream with the line running at right angles with the general course of the stream.

(b) A navigable stream may not be crossed by the lines of a survey.

[Acts 1977, 65th Leg., p. 2355, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.013. Surveys Not on a Navigable Stream

Surveys that are not made on navigable streams shall be in a square as far as lines previously surveyed will permit.

[Acts 1977, 65th Leg., p. 2355, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.014. Survey for Division Line

(a) Before running a division line between two settlers or occupants claiming land, the surveyor shall give written notice to the interested parties.

(b) A survey made contrary to the true intent and meaning of this section is invalid.

[Acts 1977, 65th Leg., p. 2356, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 21.015 to 21.040 reserved for expansion]

SUBCHAPTER C. FIELD NOTES

§ 21.041. Field Notes of a Survey of Public Land

The field notes of a survey of public land shall state:

- (1) the county in which the land is located;
- (2) the authority under which the survey is made and a true description of the survey;
- (3) the land by proper field notes with the necessary calls and connections for identification, observing the Spanish measurement by varas;
- (4) a diagram of the survey;
- (5) the variation at which the running was made;
- (6) the names of the chain carriers;
- (7) the date the survey was made; and
- (8) the signature of the surveyor.

[Acts 1977, 65th Leg., p. 2356, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.042. Surveyor's Certification

(a) The surveyor shall certify officially:

- (1) to the correctness of the survey;
- (2) that the survey was made according to law;
- (3) that the survey was actually made in the field; and
- (4) that the field notes are duly recorded, giving the book and page.

(b) If the survey was made by a deputy, the county surveyor shall certify officially that:

- (1) he has examined the field notes;
- (2) he finds them correct; and
- (3) he has determined that the survey is duly recorded, giving the book and page of record.

[Acts 1977, 65th Leg., p. 2356, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.043. Lost Field Notes

(a) If the original field notes of an authorized survey are lost or destroyed, the owner or his agent may obtain a certified copy of the record from the county surveyor on making an affidavit of the loss or destruction and filing it in the office of the county surveyor where the survey was recorded.

(b) The certified copy shall be as valid as the original record and shall secure to the owner all the rights before the commissioner that the original would have secured.

[Acts 1977, 65th Leg., p. 2356, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.044. Incorrect Field Notes

(a) The commissioner shall have a plain statement of errors in any field notes submitted to the land office, together with a sketch of the map, forwarded by mail, or personally by the interested party, to the surveyor who made the survey, with a request to correct and return the field notes and map.

(b) The surveyor shall correct and return the field notes and map at once without further charge.

(c) If the conflict exists only on the map or in the field notes, the surveyor need only officially certify to the facts and furnish a true sketch of the survey with its connections.

[Acts 1977, 65th Leg., p. 2356, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 21.045 to 21.070 reserved for expansion]

SUBCHAPTER D. TEXAS CO-ORDINATE SYSTEM

§ 21.071. Adoption of Co-Ordinate System

The system of plane rectangular co-ordinates which has been established by the National Oceanic and Atmospheric Administration for defining and stating the positions or locations of points on the surface of the earth within the State of Texas is adopted and will be known and designated as the "Texas Co-ordinate System."

[Acts 1977, 65th Leg., p. 2357, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.072. Purpose and Limitations of Co-Ordinate System

(a) The only purpose for adopting the Texas Co-ordinate System is to recognize the system for use in the State of Texas to definitely ascertain positions on the surface of the earth.

(b) Notwithstanding any other provisions of this subchapter, the use of the system is not required, and the provisions of this subchapter shall not be construed to set aside or disturb any corner or survey already established.

(c) The use of the term "Texas Co-ordinate System" on a map, report, survey, or other document is limited to co-ordinates based on the Texas Co-ordinate System as defined in this subchapter.

[Acts 1977, 65th Leg., p. 2357, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.073. Division of State Into Zones

For the purpose of using the system, the state is divided into five zones:

- (1) the North Zone;
- (2) the North Central Zone;
- (3) the Central Zone;
- (4) the South Central Zone; and
- (5) the South Zone.

[Acts 1977, 65th Leg., p. 2357, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.074. Area Within Zones

(a) The area included in the following counties constitutes the North Zone: Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler.

(b) The area included in the following counties constitutes the North Central Zone: Andrews, Archer, Bailey, Baylor, Borden, Bowie, Callahan, Camp, Cass, Clay, Cochran, Collin, Cooke, Cottle, Crosby, Dallas, Dawson, Delta, Denton, Dickens, Eastland, Ellis, Erath, Fannin, Fisher, Floyd, Foard, Franklin, Gaines, Garza, Grayson, Gregg, Hale, Hardeman, Harrison, Haskell, Henderson, Hill, Hockley, Hood, Hopkins, Howard, Hunt, Jack, Johnson, Jones, Kaufman, Kent, King, Knox, Lamar, Lamb, Lubbock, Lynn, Marion, Martin, Mitchell, Montague, Morris, Motley, Navarro, Nolan, Palo Pinto, Panola, Parker, Rains, Red River, Rockwall, Rusk, Scurry, Shackelford, Smith, Somervell, Stephens, Stonewall, Tarrant, Taylor, Terry, Throckmorton, Titus, Upshur, Van Zandt, Wichita, Wilbarger, Wise, Wood, Yoakum, and Young.

(c) The area included in the following counties constitutes the Central Zone: Anderson, Angelina, Bastrop, Bell, Blanco, Bosque, Brazos, Brown, Burleson, Burnet, Cherokee, Coke, Coleman, Comanche, Concho, Coryell, Crane, Crockett, Culbertson, Ector, El Paso, Falls, Freestone, Gillespie, Glascock, Grimes, Hamilton, Hardin, Houston, Hudspeth, Irion, Jasper, Jeff Davis, Kimble, Lampasas, Lee, Leon, Liberty, Limestone, Llano, Loving, McLennan, McCulloch, Madison, Mason, Menard, Midland, Milam, Mills, Montgomery, Nacogdoches, Newton, Orange, Pecos, Polk, Reagan, Reeves, Robertson, Runnels, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Shelby, Sterling, Sutton,

Tom Green, Travis, Trinity, Tyler, Upton, Walker, Ward, Washington, Williamson, and Winkler.

(d) The area included in the following counties constitutes the South Central Zone: Aransas, Atascosa, Austin, Bandera, Bee, Bexar, Brazoria, Brewster, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Dimmit, Edwards, Fayette, Fort Bend, Frio, Galveston, Goliad, Gonzales, Guadalupe, Harris, Hays, Jackson, Jefferson, Karnes, Kendall, Kerr, Kinney, LaSalle, Lavaca, Live Oak, McMullen, Matagorda, Maverick, Medina, Presidio, Real, Refugio, Terrell, Uvalde, Val Verde, Victoria, Waller, Wharton, Wilson, and Zavala.

(e) The area included in the following counties constitutes the South Zone: Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Nueces, San Patricio, Starr, Webb, Willacy, and Zapata.

[Acts 1977, 65th Leg., p. 2357, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.075. Zone Names in Land Description

(a) As established for use in the North Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, North Zone."

(b) As established for use in the North Central Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, North Central Zone."

(c) As established for use in the Central Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, Central Zone."

(d) As established for use in the South Central Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, South Central Zone."

(e) As established for use in the South Zone, the Texas Co-ordinate System shall be named, and in any land description in which it is used it shall be designated, the "Texas Co-ordinate System, South Zone."

[Acts 1977, 65th Leg., p. 2358, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.076. Co-Ordinate System Definitions

(a) For the purpose of precisely defining the Texas Co-ordinate System, the following definitions by the National Oceanic and Atmospheric Administration are adopted:

- (1) The Texas Co-ordinate System, North Zone, is a Lambert conformal projection of the Clarke

spheroid of 1866, having standard parallels at north latitudes 34° 39' and 36° 11', along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian 101° 30' west longitude and the parallel 34° 00' north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

(2) The Texas Co-ordinate System, North Central Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes 32° 08' and 33° 58', along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian 97° 30' west longitude and the parallel 31° 40' north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

(3) The Texas Co-ordinate System, Central Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes 30° 07' and 31° 53', along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian 100° 20' west longitude and the parallel 29° 40' north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

(4) The Texas Co-ordinate System, South Central Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes 28° 23' and 30° 17', along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian of 99° 00' west longitude and the parallel 27° 50' north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

(5) The Texas Co-ordinate System, South Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes 26° 10' and 27° 50', along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian 98° 30' west longitude and the parallel 25° 40' north latitude. This origin is given the co-ordinates: $x = 2,000,000$ feet (720,000 varas) and $y = 0$ feet (0 varas).

(b) The position of the Texas Co-ordinate System shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the National Oceanic and Atmospheric Administration for first-order and second-order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927, and whose co-ordinates have been computed on the system defined in this subchapter. Any of

these stations may be used for establishing a survey connection with the Texas Co-ordinate System.

[Acts 1977, 65th Leg., p. 2358, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.077. Unit of Measurement

The unit of measurement in this subchapter has the following values, based on the International Meter established by the National Bureau of Standards:

- (1) one meter = 39.37 inches exactly;
- (2) one foot = 12.00 inches exactly; and
- (3) one vara = 33 $\frac{1}{3}$ inches exactly.

[Acts 1977, 65th Leg., p. 2359, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.078. Terms "X Co-Ordinate" and "Y Co-Ordinate"

(a) The plane rectangular co-ordinates of a point on the earth's surface, to be used in expressing the position or location of the point in the appropriate zone, of this system, shall consist of two distances, expressed in feet and decimals of a foot.

(b) One of these distances, to be known as the "x co-ordinate," shall give the position in an east-and-west direction; the other, to be known as the "y co-ordinate," shall give the position in a north-and-south direction.

(c) These co-ordinates shall be made to depend on and conform to the plane rectangular co-ordinates of the triangulation and traverse stations of the National Oceanic and Atmospheric Administration within the State of Texas, as those co-ordinates have been determined by the survey.

[Acts 1977, 65th Leg., p. 2359, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 21.079. Land in More Than One Zone

If a tract of land to be defined by a single description extends from one zone into another of the co-ordinate zones, the positions of all points on its boundaries may be referred to by either of the zones, the zone which is used being specifically named in the description.

[Acts 1977, 65th Leg., p. 2360, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 22. BOARD OF EXAMINERS OF LAND SURVEYORS [REPEALED]

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

22.001. Repealed.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

22.011 to 22.019. Repealed.

SUBCHAPTER C. LICENSING OF LAND SURVEYORS

Sec.
22.051 to 22.065. Repealed.

SUBCHAPTER D. POWERS AND DUTIES OF LICENSED SURVEYOR

22.101 to 22.111. Repealed.

SUBCHAPTER E. REVOCATION OF LICENSE

22.151. Repealed.

SUBCHAPTER A. GENERAL PROVISIONS

§ 22.001. Repealed by Acts 1979, 66th Leg., p. 1278, ch. 597, § 30(3), eff. June 13, 1979

See, now, Civil Statutes, art. 5282c.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§§ 22.011 to 22.019. Repealed by Acts 1979, 66th Leg., p. 1278, ch. 597, § 30(3), eff. June 13, 1979

See, now, Civil Statutes, art. 5282c.

SUBCHAPTER C. LICENSING OF LAND SURVEYORS

§§ 22.051 to 22.065. Repealed by Acts 1979, 66th Leg., p. 1278, ch. 597, § 30(3), eff. June 13, 1979

See, now, Civil Statutes, art. 5282c.

SUBCHAPTER D. POWERS AND DUTIES OF LICENSED SURVEYOR

§§ 22.101 to 22.111. Repealed by Acts 1979, 66th Leg., p. 1278, ch. 597, § 30(3), eff. June 13, 1979

See, now, Civil Statutes, art. 5282c.

SUBCHAPTER E. REVOCATION OF LICENSE

§ 22.151. Repealed by Acts 1979, 66th Leg., p. 1278, ch. 597, § 30(3), eff. June 13, 1979

See, now, Civil Statutes, art. 5282c.

CHAPTER 23. COUNTY SURVEYORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec.
23.001. Definitions.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 23.011. Election.
- 23.012. Residence.
- 23.013. Bond.
- 23.014. Deputy Surveyor.
- 23.015. Chain Carriers and Markers.
- 23.016. Office Location.

SUBCHAPTER C. POWERS AND DUTIES

23.051. In General.

Sec.

- 23.052. Surveys on Which Patents Are to be Obtained.
- 23.053. Record of Field Notes.
- 23.054. Right of Inspection.
- 23.055. Bound Records.
- 23.056. Lost Records.
- 23.057. Custody of Records in Absence of County Surveyor.
- 23.058. Delivery of Records to Successor.
- 23.059. Failure to Survey.

SUBCHAPTER A. GENERAL PROVISIONS

§ 23.001. Definitions

In this chapter:

- (1) "Commissioner" means the Commissioner of the General Land Office.
- (2) "Land office" means the General Land Office.

[Acts 1977, 65th Leg., p. 2367, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 23.002 to 23.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 23.011. Election

At each general election, a county surveyor shall be elected in each county for a term of two years.

[Acts 1977, 65th Leg., p. 2367, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.012. Residence

The county surveyor shall reside in the county.

[Acts 1977, 65th Leg., p. 2367, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.013. Bond

The county surveyor shall execute a bond conditioned on the faithful performance of the duties of the office. The amount of the bond shall be fixed by the commissioners court and shall be not less than \$500 nor more than \$10,000.

[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.014. Deputy Surveyor

(a) A county surveyor may appoint a deputy surveyor as he considers necessary.

(b) The county surveyor shall administer the deputy surveyor's official oath and take his bond in the sum of not less than \$500 nor more than \$10,000, conditioned on the faithful performance of the duties of the office.

(c) The deputy may perform all acts authorized or required by law to be done by the county surveyor.

[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.015. Chain Carriers and Markers

(a) A county surveyor may employ persons 16 years of age or older as chain carriers or markers.

(b) The county surveyor shall administer an oath to each of these employees to faithfully perform his duties in accordance with the instructions given him.

[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.016. Office Location

(a) The county surveyor's office shall be located in the courthouse or in a suitable building at the county seat.

(b) Rent for an office outside the courthouse shall be paid by the commissioners court on showing that:

- (1) the rent is reasonable;
- (2) the office is necessary; and
- (3) an office is not available at the courthouse.

[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 23.017 to 23.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 23.051. In General

The county surveyor shall perform the duties required of him by law.

[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.052. Surveys on Which Patents Are to be Obtained

The county surveyor shall:

- (1) receive and examine all field notes of surveys made in the county on which patents are to be obtained;
- (2) certify to the same according to law; and
- (3) record the field notes in a book to be kept by him for that purpose.

[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.053. Record of Field Notes

(a) The commissioners court shall furnish the county surveyor all necessary books of record.

(b) The county surveyor shall record in a well-bound book all the surveys in his county, with the plats that he may make, whether private or official.

[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Acts 1935, 44th Leg., p. 194, ch. 78, as amended by Acts 1981, 67th Leg., p. 670, ch. 262, provides:

"Sec. 1. (a) The Commissioner of the General Land Office is hereby authorized to accept and file corrected field notes to any survey of land in Swisher, Castro, or Randall County, where said

corrected field notes are made by an official surveyor thereunto duly authorized by the owners of the land covered by said corrected field notes, and where said corrected field notes are based upon the ground location of said survey as located according to the 'W. B. Hutchison Iron Pipe Survey' as the same now exists on the ground in Swisher, Castro, or Randall County. Upon approval by the Land Commissioner, and filing of said corrected field notes, the Land Commissioner shall issue corrected patents to any survey as resurveyed in Swisher, Castro, or Randall County. A present landowner in Swisher County shall pay the sum of Two Dollars (\$2.00) per acre for any excess acreage in any survey over and above the acreage called for by the present outstanding patent or award now existing on said lands. Except as provided by Subsection (b) of this section, if a corrected patent to land in Castro or Randall County is based on a survey that calls for acreage in excess of the acreage under the original patent, the Land Commissioner shall convey the excess by deed of acquittance as provided by law.

"(b) If landowners who own contiguous property in Castro or Randall County are eligible to apply for corrected patents under Subsection (a) of this section, the landowners may agree among themselves as to the boundaries of each of the respective properties under the corrected patents. If the agreement reconciles the W. B. Hutchison Iron Pipe Survey with other established adjacent surveys, the Land Commissioner shall issue patents that correspond to the agreed boundaries.

"(c) The issuance of corrective patents, corrective deeds of acquittance, or the redrawing of boundary lines under this section is not a sale of land.

"Sec. 2. All sums paid under the terms of this Act shall be paid to the Commissioner of the General Land Office at Austin, Texas, and shall be credited to the Permanent School Fund.

"Sec. 3. No re-survey made under the terms of this Act shall shift or in any wise change the lines of any section of land which has been located upon the ground by final judgment of the court, or by an agreement in writing heretofore made and entered into by the parties interested. In cases where lines of any surveys have been fixed upon the ground by a court decree or agreement, corrected field notes made under this Act shall conform to such judgment or agreement.

"Sec. 4. The owner of any section or part of section of land in Swisher, Castro, or Randall County, who files field notes in the General Land Office in accordance with the terms of this Act, shall accompany same with affidavits by the owner of surrounding surveys, which affidavits must show that the owners and claimants of said surrounding surveys agree to the location of said lines as shown by said re-survey, and the Land Commissioner shall not approve the field notes of any re-survey unless the same is accompanied by affidavits of the owners and claimants of surrounding surveys as herein required.

"Sec. 5. The Commissioner of the General Land Office is not authorized to accept the payment of less than the total due for the excess in an entire survey, nor shall the voluntary payment of any sum for the excess in a survey vest in the payor any right or title whatever to land not included within the boundaries of the payor's subdivision of the survey.

"Sec. 6. All patents issued under the terms of this Act shall inure to the benefit of all owners of surveys in accordance with their holdings, this Act being an Act to prevent disturbance of divisional or partitioning lines of surveys as well as the original marginal lines as all such lines may exist on the ground."

§ 23.054. Right of Inspection

At all times, any interested person, agent, or attorney may examine the books, papers, plats, maps, or other archives belonging to the office of the county surveyor on the payment of the fee set by law. In addition to the fees allowed by law for

field work, the county surveyor may charge 20 cents per 100 words for the record.

[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.055. **Bound Records**

If the commissioners court considers it necessary, it may order that the county surveyor's record be transcribed in good and substantial books by the county surveyor or special deputies sworn to make true copies of the record. For this service, not more than 15 cents per 100 words shall be allowed to be paid out of the county treasury.

[Acts 1977, 65th Leg., p. 2369, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.056. **Lost Records**

(a) If the maps, field notes, or other records of the county surveyor's office, or any part of them, are lost or destroyed, the county surveyor shall obtain from the commissioner a transcript of the lost records, certified to as required by law.

(b) The certified copy has the same force and effect as the original.

[Acts 1977, 65th Leg., p. 2369, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.057. **Custody of Records in Absence of County Surveyor**

If a county does not have a county surveyor, the county clerk of the county shall take charge of all records, maps, and papers belonging to the county surveyor's office and safely keep them in his office.

[Acts 1977, 65th Leg., p. 2369, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.058. **Delivery of Records to Successor**

On removal from office or at the expiration of his term of office, the county surveyor shall deliver to his successor all records, books, papers, maps, and other things pertaining to his office.

[Acts 1977, 65th Leg., p. 2369, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 23.059. **Failure to Survey**

If a county surveyor fails, neglects, or refuses to make a survey or have a survey made, within one month after the amount of lawful surveying fees are tendered to him by a person legally entitled to the survey, he and his sureties shall be liable on his official bond to the injured parties in the amount of damages or injury the parties may sustain by reason of the neglect, refusal, or failure.

[Acts 1977, 65th Leg., p. 2369, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBTITLE C. ADMINISTRATION

CHAPTER 31. GENERAL LAND OFFICE

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- 31.101. Definition.
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SUBCHAPTER A. GENERAL PROVISIONS

§ 31.001. **Definitions**

In this chapter:

- (1) "State" means the State of Texas.
- (2) "Commissioner" means the Commissioner of the General Land Office.
- (3) "Land office" means the General Land Office.

[Acts 1977, 65th Leg., p. 2370, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 31.002 to 31.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE
PROVISIONS

§ 31.011. Land Office Established

There shall be one General Land Office located in Austin, which shall register all land titles emanating from the state if not prohibited by the constitution.

[Acts 1977, 65th Leg., p. 2371, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.012. Commissioner's Election; Residence

The commissioner shall be elected at a general election for a term of four years and shall reside in Austin during his term of office.

[Acts 1977, 65th Leg., p. 2371, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.013. Bonds

(a) The commissioner shall execute a bond for \$50,000 with three or more sureties payable to and approved by the governor and conditioned on the faithful discharge of his duties.

(b) Any bonds required by law to be executed by employees of the land office shall be executed and approved in the manner provided for the commissioner in Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2371, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.014. Commissioner's Liability

The commissioner and the sureties on his official bond are responsible to any person who is injured by removal, withdrawal, or alteration of any record or file in the land office, unless the commissioner is able to show that the act has taken place with the permission of the person owning the file or record.

[Acts 1977, 65th Leg., p. 2371, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.015. Chief Clerk

(a) The commissioner shall appoint a chief clerk, who shall execute a bond for \$20,000.

(b) The chief clerk may perform any of the duties of the commissioner if the commissioner is sick, is absent, dies, or resigns.

[Acts 1977, 65th Leg., p. 2371, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.016. Abstract Clerk

The commissioner shall designate one of his clerks as the abstract clerk and shall assign to him the special duty to correct the abstracts of patented, titled, and surveyed land required to be kept in the land office to reflect errors, changes caused by cancellation of patents and in county lines, and the

creation of new counties and to add new patented surveys on the date they are patented.

[Acts 1977, 65th Leg., p. 2371, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.017. Receiving Clerk

(a) With the consent of the governor, the commissioner shall appoint a suitable person to serve as receiving clerk for the land office.

(b) The receiving clerk shall execute a bond for \$25,000.

[Acts 1977, 65th Leg., p. 2371, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.018. Translator

(a) The commissioner shall appoint a translator who thoroughly understands the Spanish and English languages.

(b) The translator shall execute a bond in the amount required for the chief clerk and shall take the official oath.

(c) The translator shall translate into English and record in a book any laws and public contracts relating to titles to land and any original titles or papers which are written in the Spanish language and which are filed in the land office.

[Acts 1977, 65th Leg., p. 2371, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.019. Draftsmen

(a) The commissioner shall appoint a chief draftsman and as many assistant draftsmen as authorized by law.

(b) The chief draftsman and his assistant draftsmen shall draw and complete county maps.

(c) The chief draftsman and his assistant draftsmen shall perform drafting and other duties required by the commissioner for the benefit of the state or individuals.

[Acts 1977, 65th Leg., p. 2371, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.020. Conditions of Employment

(a) The commissioner shall appoint the number of clerks authorized by law and legislative appropriation.

(b) Clerks and employees of the land office shall hold their offices and positions at the pleasure of the commissioner and may be removed by him at any time for satisfactory cause.

[Acts 1977, 65th Leg., p. 2372, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.021. Reimbursement for Notary Public Expense

The land office may reimburse an employee for the fees and costs of a bond that are required for appointment as a notary public if the employee provides notary public service as part of the employee's duties with the land office.

[Acts 1979, 66th Leg., p. 70, ch. 45, § 1, eff. April 11, 1979.]

[Sections 31.022 to 31.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 31.051. General Duties

The commissioner shall:

- (1) superintend, control, and direct the official conduct of subordinate officers of the land office;
- (2) execute and perform all acts and other things relating to public land of the state or rights of individuals in public land which is required by law;
- (3) make and enforce suitable rules consistent with the law; and
- (4) give information when required to the governor and the legislature relating to public land and the land office.

[Acts 1977, 65th Leg., p. 2372, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.052. Custody of Records

(a) Books, accounts, records, papers, maps, and original documents relating to land titles which are termed archives by law shall be the books and papers of the land office under the control and custody of the commissioner.

(b) The commissioner shall keep in the land office a copy of each permit, lease, or other paper issued under law.

[Acts 1977, 65th Leg., p. 2372, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.053. Filing Papers

(a) The commissioner shall adopt the most convenient method for filing papers and preserving records of the land office.

(b) A list of all papers in each file shall be retained in the file.

(c) Each employee who files a paper shall place his name on it.

[Acts 1977, 65th Leg., p. 2372, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.054. Public Access to Papers

(a) Any person who desires to examine any paper, record, or file must obtain the written consent of the commissioner or the chief clerk and an order for

the detail of a clerk to be present and superintend the examination.

(b) After the examination, the clerk shall carefully examine the papers of the file and make sure that they are all in place.

[Acts 1977, 65th Leg., p. 2372, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.055. Removing Papers

(a) No transfer or deed which may be a link in any chain of title to any certificate on file in the land office may be removed by any person, but the commissioner shall deliver to the interested person on demand certified copies which shall have the same force and effect as the originals.

(b) If the genuineness of any original paper is questioned in a suit, the commissioner, on order of the court in which the suit is pending, shall deliver the original paper to the proper person and shall retain a certified copy of the paper which will have the same force and effect as the original if the original is lost.

(c) If the commissioner has good reason to doubt the genuineness of any transfer, power of attorney, or other paper on file in his office, he shall not permit any person to obtain an official copy of the paper until the doubts have been removed.

[Acts 1977, 65th Leg., p. 2372, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.056. Revision and Compilation of Abstracts

(a) The commissioner shall prepare a revision and compilation of the various volumes of the abstracts of patented, titled, and surveyed land which were previously made by the land office.

(b) The various counties of the state shall be apportioned into one of not more than eight districts for the purpose of revising and compiling the abstracts and the abstracts of each of the districts shall be compiled in a separate volume.

(c) The commissioner may distribute to the officers of the state who require its use but have not previously received a set, one complete set of the abstracts of patented, titled, and surveyed land and may sell the surplus volumes to any persons who apply for them at a price that is not less than the cost to the state.

(d) Any money received from the sale of surplus volumes shall be deposited in the general revenue fund.

(e) The commissioner may have a sufficient number of volumes printed to meet the demand.

(f) Printing and binding shall be done exclusively in the State of Texas.

(g) None of the provisions of this section affect the provisions of Section 31.057 of this code.

[Acts 1977, 65th Leg., p. 2373, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.057. Printing Supplementary Abstracts

(a) The commissioner may have not more than 1,500 copies of the supplementary abstracts of patented, titled, and surveyed land printed and bound annually for distribution to the officers of the state and counties whose duties require them to use it, and surplus copies may be sold at a reasonable price to any person who applies for a copy.

(b) The cost incurred in printing the copies shall be paid from the land office appropriation for printing.

(c) The commissioner shall deposit any money received from the sale of the copies of the State Treasury to the credit of the General Revenue Fund.

[Acts 1977, 65th Leg., p. 2373, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.058. Receiving Funds

(a) The receiving clerk shall receive funds required by law to be paid to the commissioner and shall give to each person who deposits money a certificate of deposit stating the amount, the name of the person, and the type of claim on which the deposit was made.

(b) If funds are received which are of a general character in advance of fees and dues, it shall be stated.

(c) The clerk shall be responsible to the state or individual for the funds.

[Acts 1977, 65th Leg., p. 2373, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.059. Receiving Clerk's Books

(a) The receiving clerk shall keep books in which he shall enter:

- (1) each deposit separately;
- (2) the name of the person; and
- (3) the number of the claim and the location of the land to be perfected.

(b) He shall keep letters and other vouchers filed in neat and regular order and number corresponding with his books.

(c) The receiving clerk shall report to the State Treasurer and pay in kind on the last day of each month funds in his possession which are due to the state and shall receive a receipt in his own name.

(d) In his books, the receiving clerk shall keep separate columns indicating the amount of specie or the amount of currency or other funds paid to him.

(e) On removal from office or resignation, the receiving clerk shall turn over his books, accounts, and money to his successor if he has qualified or to the commissioner and shall receive a receipt for them.

[Acts 1977, 65th Leg., p. 2373, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.060. Financial Report

On or before the meeting of the legislature, the receiving clerk shall furnish to the governor through the commissioner a correct report of the condition of his office, including the amount of money received, the type of claim, the amount of money paid out, and the type of payment.

[Acts 1977, 65th Leg., p. 2374, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.061. Examination of Books

The commissioner shall examine the books and accounts of the receiving clerk to determine if they have been properly kept.

[Acts 1977, 65th Leg., p. 2374, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.062. Embezzlement

(a) In examining the books of the receiving clerk, if the commissioner finds evidence of embezzlement, he shall report it immediately to the governor.

(b) The governor shall suspend the receiving clerk from office until an examination of the books and accounts is made.

(c) If the suspended clerk is found guilty of embezzlement, he shall be removed from office and a suit shall be instituted to recover on his bond.

[Acts 1977, 65th Leg., p. 2374, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.063. Location of Coastal Boundaries

(a) The commissioner shall have the area between the coastline of the Gulf of Mexico and the Three Marine League line compiled and platted and shall locate and set the boundary lines between the coastal counties from the coastline to the Three Marine League line.

(b) The boundary lines between the counties from the coastline to the Three Marine League line shall be located and set by the commissioner in accordance with established engineering practice.

(c) The legal description of the boundary lines set between the counties from the coastline to the continental shelf shall be filed and recorded in the office of the county clerk of the affected county.

[Acts 1977, 65th Leg., p. 2374, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.064. Setting and Collecting Fees

The commissioner shall set and collect, for the use of the state, reasonable fees in amounts determined by the commissioner for filing fees, preparation of certificates of fact, certified copies, maps, reproduction of maps and sketches, Spanish translations, patents and deeds of acquittance, and for other miscellaneous services, including but not limited to shipping in a mailing tube and typed transcriptions or taped copies of tapes or other sound recordings.

[Acts 1983, 68th Leg., p. 405, ch. 81, § 21(m), eff. Sept. 1, 1983.]

Section 21(p) and (q) of the 1983 Act provides:

"(p) Article 3918, Revised Statutes, as amended, is repealed and replaced by the addition of Section 31.064 to the Natural Resources Code.

"(q) This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

[Sections 31.065 to 31.100 reserved for expansion]

SUBCHAPTER D. ISSUANCE OF PERMITS

§ 31.101. Definition

In this subchapter, "areas within tidewater limits" means islands, saltwater lakes, bays, inlets, marshes, and reefs within tidewater limits and that portion of the Gulf of Mexico within the jurisdiction of Texas.

[Acts 1977, 65th Leg., p. 2374, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.102. Authority to Make Geological, Geophysical, and Other Surveys

(a) The commissioner may issue permits for geological, geophysical, and other surveys and investigations of areas within tidewater limits which are not subject to valid oil and gas leases executed by the state.

(b) Any person who has a valid oil and gas lease executed by the state or who has the permission of such a lessee is entitled to conduct geological, geophysical, and other surveys and investigations in the area without obtaining a permit, but the surveys and investigations shall be conducted under rules established by the commissioner.

[Acts 1977, 65th Leg., p. 2375, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.103. Deposit

(a) Before a permit is issued under this subchapter, the applicant shall deposit with the commissioner an amount set by the commissioner that is not less than \$50 a day for the desired term of the permit.

(b) A separate permit shall be obtained and deposit made for each party or part of a party engaged in making a survey or investigation.

(c) Deposits shall be retained by the commissioner in a special trust fund until the survey or investigation is completed and the permittee files with the commissioner a report under oath stating the number of days during which actual work on the survey or investigation was conducted on the area covered by the permit.

(d) After the report is filed, the commissioner shall deposit in the State Treasury to the credit of the permanent school fund the amount set by the commissioner in Subsection (a) of this section for the number of days during which the actual work on the survey or investigation was conducted, and the remaining portion of the deposit shall be returned to the applicant.

[Acts 1977, 65th Leg., p. 2375, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 402, ch. 81, § 21(a), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 31.104. Payments on Areas Surveyed or Investigated Without a Permit

(a) The commissioner or the attorney general shall demand from any person who conducts a survey or investigation on an area within tidewater limits without a permit or lease from the state payment of \$50 a day for each day actual work is done on the survey or investigation.

(b) On refusal to pay, the attorney general shall institute suit to recover as damages for the unauthorized use of the property the amount or the reasonable value of the privilege exercised.

[Acts 1977, 65th Leg., p. 2375, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.105. Prohibition

No person may conduct geological, geophysical, and other surveys and investigations on areas within tidewater limits unless he has a permit or he has an oil and gas leasehold estate in the area or has permission from the owner thereof.

[Acts 1977, 65th Leg., p. 2375, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.106. Methods

The owner of the oil and gas leasehold estate located in an area within tidewater limits or a person having his permission or a person who has a permit may use all reasonable methods including

use of explosives to make surveys and investigations.

[Acts 1977, 65th Leg., p. 2375, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.107. Rules

(a) Geological, geophysical, and other surveys and investigations of areas within tidewater limits shall be conducted under rules adopted by the commissioner to prevent unnecessary pollution of water, destruction of fish, oysters, and other marine life, and obstruction of navigation.

(b) The commissioner shall follow the recommendations of the Parks and Wildlife Department to prevent unnecessary pollution of water, destruction of fish, oysters, and other marine life, and obstruction of navigation.

[Acts 1977, 65th Leg., p. 2375, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 31.108. Penalty

Any person who violates the provisions of this subchapter, the provisions of a permit issued under this subchapter, or any rule adopted by the commissioner is guilty of a misdemeanor and on conviction shall be fined not less than \$100 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense.

[Acts 1977, 65th Leg., p. 2376, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 32. SCHOOL LAND BOARD

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32.001. Definitions.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

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- 32.012. Members of the Board.
- 32.013. Terms of Appointed Members.
- 32.014. Chairman of the Board.
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- 32.016. Board Meetings.
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SUBCHAPTER C. POWERS AND DUTIES

- 32.061. Board's General Duties.
- 32.062. Adoption of Rules.
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SUBCHAPTER D. SALE AND LEASE OF LAND

- 32.101. Applicable Law.
- 32.102. List of Land.
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SUBCHAPTER A. GENERAL PROVISIONS

§ 32.001. Definitions

In this chapter:

- (1) "Board" means the School Land Board.
- (2) "Commissioner" means the Commissioner of the General Land Office.
- (3) "Land office" means the General Land Office.
- (4) "Land" means land dedicated to the permanent school fund and the asylum funds by the constitution and laws of this state and the mineral estate in areas within tidewater limits, including islands, lakes, bays, and the bed of the sea which belong to the state, and the mineral estate in river beds and channels.

[Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Application of Sunset Act

Acts 1977, 65th Leg., p. 1846, ch. 735, § 2.099, purports to add § 3a to Civil Statutes, art. 5421c-3, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 1(a)(1). As so added, § 3a reads:

"The School Land Board is subject to the Texas Sunset Act [Civil Statutes, art. 5429k]; and unless continued in existence as provided by that Act the board is abolished effective September 1, 1985."

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

[Sections 32.002 to 32.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 32.011. Creation of Board

There is created a board to be known as the School Land Board.

[Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.012. **Members of the Board**

(a) The board is composed of:

- (1) the commissioner;
- (2) a citizen of the state appointed by the governor with the advice and consent of the senate; and
- (3) a citizen of the state appointed by the attorney general with the advice and consent of the senate.

(b) The authority of the attorney general to appoint one of the members of the board, including the authority to make appointments during the recess of the senate, is the same as the authority of the governor to fill vacancies in state offices under the Texas Constitution.

(c) Each appointment made by the governor and the attorney general shall be made in accordance with and subject to the provisions of the Texas Constitution authorizing the filling of vacancies in state offices by appointment of the governor.

[Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.013. **Terms of Appointed Members**

The members appointed to the board by the governor and the attorney general serve for terms of two years.

[Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.014. **Chairman of the Board**

The commissioner serves as chairman of the board.

[Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.015. **Per Diem and Reimbursement**

Each citizen member of the board is entitled to receive a per diem allowance for each day spent in performing his duties and as reimbursement for actual and necessary travel expenses incurred in performing his duties the amount provided in the General Appropriations Act.

[Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.016. **Board Meetings**

(a) The board shall meet on the first and third Tuesdays of each month in the land office.

(b) Subject to recesses at the discretion of the board, meetings of the board shall continue until the board has completed its docket.

[Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.017. **Secretary of the Board**

(a) The board shall select a secretary from persons nominated by the commissioner.

(b) The person selected as secretary shall be approved by a majority of the board.

[Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.018. **Employment of Geologist and Mineralogist**

The commissioner may employ a geologist and a mineralogist who shall be informed about minerals on public school land and activities under pending applications and previous leases and sales. The geologist and mineralogist shall report to the board any information relating to these subjects.

[Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.019. **Board Employees**

(a) The commissioner may employ additional employees necessary for the discharge of the duties of the board.

(b) Employees of the board shall be considered employees of the land office, and civil and criminal laws regulating the conduct and relations of employees of the land office apply to employees of the board.

[Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.020. **Minutes of Board**

The board shall keep minutes which shall include a record of its proceedings and a docket on which the secretary shall enter matters to be considered by the board.

[Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.021. **Records and Proceedings as Archives**

The records and proceedings of the board shall be records and archives of the land office.

[Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.022. **Inspection of Minutes and Docket**

(a) On payment of the fees prescribed by law for examination of other land office records, the minutes and docket shall be subject to inspection by any citizen of the state who desires to make the examination.

(b) An examination made under this section shall be made in the presence of the secretary of the board or a clerk designated by law.

[Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 32.023 to 32.060 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 32.061. Board's General Duties

The board shall:

- (1) set the dates for the sale and lease of surveyed land;
- (2) determine the prices for which surveyed and unsurveyed land shall be sold and leased; and
- (3) perform any other duties which may be required by law.

[Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Acts 1983, 68th Leg., p. 79, ch. 11, provides:

"Sec. 1. **Authority to Trade Public School Land.** (a) The School Land Board in conjunction with the General Land Office is authorized to trade fee and lesser interests in public free school fund land for fee and lesser interests in land not dedicated to the public free school fund on a decision by the School Land Board and the Commissioner of the General Land Office that the trade or trades are in the best public interest of the people of Texas.

"(b) The trade or trades may be made either to aggregate sufficient acreage of contiguous land to create a manageable unit, to acquire land having unique biological, geological, cultural, or recreational value, or to create a buffer zone for the enhancement of already existing public land, facilities, or amenities.

"(c) Trades shall be made on an appraised value basis with the appraisal to be made by appraisers of the General Land Office and concurred in by the School Land Board. The appraisal shall be conclusive proof of the value of the land.

"(d) Land trades shall be made for land of at least equal value.

"(e) The trades shall be made by a deed to be signed jointly by the Commissioner of the General Land Office and the governor. Failure of the governor to sign such a deed constitutes his veto of the proposed trade, and the proposed trade must not be made.

"(f) All land acquired by trade under the authority of this Act is dedicated to the public free school fund.

"Sec. 2. **Subsurface Mineral Rights.** (a) If the State of Texas retains the subsurface mineral rights to all oil, gas, and other minerals in public free school fund land traded under Section 1 of this Act, an unrestricted right of ingress to and egress from the land by the state and its lessees shall be retained for the purpose of exploration, development, and production of the oil, gas, and other minerals to which rights are retained by the state.

"(b) The state is entitled to lease the subsurface mineral rights retained under this section in the same manner and under the same conditions as subsurface mineral rights are leased in permanent school fund land in which the state owns the surface title and the subsurface mineral rights.

"(c) A lessee of the subsurface mineral rights retained under this section is liable to the owner of the land for actual damages to the land that may occur as a result of exploration for and development and production of the oil, gas, and other minerals to which rights are retained under this section.

"(d) Notwithstanding anything to the contrary in this Act, the School Land Board, in order to consummate a trade of equal value, is given the discretionary right to convey the surface estate and to reserve all the oil, gas, and other minerals with the surface owner acting as agent for the state under Subchapter F, Chapter 52, Natural Resources Code, thereby receiving one-half the bonus, rental, and royalty as agent for the state in leasing the land and for surface damages in the leasing of oil and gas.

"(e) The surface owner shall also receive 40 percent of the bonus, rental, and royalty for leasing and as compensation for surface damages for all leases negotiated by the agent covering sulphur, coal, lignite, uranium, and potash as set out under Subchapter C, Chapter 53, Natural Resources Code.

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"Sec. 3. **Reports to Legislature.** If a trade is made, the School Land Board shall report the trade to the next regular session of the legislature following the trade or to the current regular session of the legislature, if the legislature is meeting in regular session at the time the trade is made. The report must state the facts that warranted the trade.

"Sec. 4. **Expiration of Act.** The authority granted by this Act to trade public free school fund land expires on December 31, 1986, and no trade may be made after that date."

§ 32.062. Adoption of Rules

The board shall adopt rules of procedure and rules for the sale and lease of land covered by this chapter which are not inconsistent with this chapter and laws relating to the sale and lease of school and asylum land and islands, lakes, and bays within tidewater limits and the bed of the sea which belong to the state, and the lease of the mineral estate in river beds and channels.

[Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.063. Duty to Advise Commissioner

The board shall advise the commissioner regarding any matters submitted to it for that purpose.

[Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 32.064 to 32.100 reserved for expansion]

SUBCHAPTER D. SALE AND LEASE OF LAND

§ 32.101. Applicable Law

Land shall be sold and leased subject to the terms and conditions provided by law.

[Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.102. List of Land

From time to time the commissioner shall furnish the board a list of land areas subject to the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.103. Appraised Value of Land

(a) Except as provided in Subsection (b) of this section, no land may be appraised at less than \$2 an acre.

(b) Land located west of the Pecos River may be appraised at not less than \$1 an acre.

[Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.104. Appraisal Fee

(a) The board shall charge applicants for the purchase of excess acreage and unsurveyed public school land an appraisal fee for appraising the acre-

age and land to determine the price at which it is to be sold by the state.

(b) The appraisal fee shall be in an amount set by the board, and any part of the fee which in the opinion of the board is unused shall be refunded to the applicant.

(c) The appraisal fee shall be paid to the commissioner who shall deposit all fees that are not refunded in the State Treasury in the fund provided under Section 32.110 of this code.

(d) The money deposited in the fund to the extent necessary is appropriated to the land office to pay salaries, travel expenses, and other expenses of personnel necessary to accomplish the appraisals or other work of the board.

(e) The provisions of this section are cumulative of other laws which are not in conflict, but if a conflict exists, this section is controlling.

[Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.105. Date of Sale and Lease

The sale date for the sale or lease of land shall be the first Tuesday of the month.

[Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.106. Description of Land

The description of public school land offered for sale or lease shall be in accord with the description which may be found in the School Land Registry in the land office.

[Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.107. Notice of Sale and Lease

(a) The board shall publish notice of the sale or lease of land in at least three issues of four daily newspapers.

(b) The notice shall be published at least 30 days before the date of sale or lease.

(c) The notice shall state that land is to be offered for sale or lease on a certain date and that lists describing the land may be obtained at the land office.

[Acts 1977, 65th Leg., p. 2380, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.108. Entries on Docket

The descriptions of the land shall be entered on the docket, and as applications are filed, the names of the applicants and the amount of the bids also shall be entered on the docket.

[Acts 1977, 65th Leg., p. 2380, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.109. Acceptance and Rejection of Bids

(a) The board may reject any and all bids, but if the board elects not to reject any and all bids, it is required to accept the best bid submitted.

(b) The minutes of the board shall reflect the acceptance or rejection of a bid, and the approval of the minutes constitutes approval of the act of acceptance or rejection.

[Acts 1977, 65th Leg., p. 2380, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 32.110. Special Sale Fee

(a) On land sales and mineral leases made by the board, the bidder is required to pay by separate check an amount equal to one and one-half percent of the bid payable to the commissioner as a special fee.

(b) Only the special fees paid on the high bids accepted by the board shall be deposited by the commissioner in the State Treasury as a special fund.

(c) Failure to pay the special fee does not render a bid void, but the commissioner shall demand payment of the fee before he issues a lease to the successful bidder. If the successful bidder fails or refuses to make the payment within 30 days after demand by the commissioner, the bidder is not entitled to a lease or sale on the tract covered by his bid and the cash bonus shall be automatically forfeited to be deposited by the commissioner in the State Treasury to the credit of the permanent school fund or the appropriate special mineral fund.

(d) Checks submitted by unsuccessful bidders shall be returned to the bidders with their bid checks.

[Acts 1977, 65th Leg., p. 2380, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 405, ch. 81, § 21(n), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 32.111. Issuance of Award or Lease

Each award or lease shall be issued by the commissioner according to the minutes approved by the board.

[Acts 1977, 65th Leg., p. 2380, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 33. MANAGEMENT OF COASTAL PUBLIC LAND

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SUBCHAPTER A. GENERAL PROVISIONS

§ 33.001. Policy

(a) The surface estate in the coastal public land of this state constitutes an important and valuable asset dedicated to the permanent school fund and to all the people of Texas, and it is the declared policy of this state that the estate be managed pursuant to the policies stated in the following subsections of this section.

(b) The natural resources of the surface estate in coastal public land shall be preserved. These resources include the natural aesthetic values of those areas and the value of the areas in their natural state for the protection and nurture of all types of marine life and wildlife.

(c) Uses which the public at large may enjoy and in which the public at large may participate shall take priority over those uses which are limited to fewer individuals.

(d) The public interest in navigation in the intra-coastal water shall be protected.

(e) Unauthorized use of coastal public land shall be prevented.

(f) Utilization and development of the surface estate in the coastal public land shall not be allowed

unless the public interest as expressed by this chapter is not significantly impaired by it.

(g) For the purposes of this chapter, the surface estate in coastal public land shall not be alienated except by the granting of leaseholds and lesser interests and by exchanges of coastal public land for littoral property as provided in this chapter.

(h) Vested rights in land shall be protected, subject to the paramount authority of the state in the exercise of police powers to regulate the exercise of these rights, and the orderly use of littoral property in a manner consistent with the public policy of this state shall not be impaired.

[Acts 1977, 65th Leg., p. 2382, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.002. Purpose

The purpose of this chapter is to implement the policies stated in Section 33.001 of this code by delegating to the board, assisted by the planning division and other staff of the land office, certain responsibilities and duties with respect to the management of the surface estate in coastal public land.

[Acts 1977, 65th Leg., p. 2383, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.003. Short Title

This chapter may be cited as the Coastal Public Lands Management Act of 1973.

[Acts 1977, 65th Leg., p. 2383, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.004. Definitions

In this chapter:

(1) "Land office" means the General Land Office.

(2) "Commissioner" means the Commissioner of the General Land Office.

(3) "Board" means the School Land Board.

(4) "Person" means any individual, firm, partnership, association, corporation which is public or private and profit or nonprofit, trust, or political subdivision or agency of the state.

(5) "Coastal area" means the geographic area comprising all the counties in Texas which have any tidewater shoreline, including that portion of the bed and water of the Gulf of Mexico within the jurisdiction of the State of Texas.

(6) "Coastal public land" means all or any portion of state-owned submerged land, the water overlying that land, and all state-owned islands or portions of islands in the coastal area.

(7) "Island" means any body of land surrounded by the water of a saltwater lake, bay, inlet, estuary, or inland body of water within the tidewater limits of this state and shall include man-made islands resulting from dredging or other operations.

(8) "Management program" means the coastal public land management program provided by this chapter and shall include a comprehensive statement in words, maps, illustrations, or other media inventorying coastal public land resources and capabilities and setting forth objectives, policies, and standards to guide planning and to control the utilization of those resources.

(9) "Seaward" means the direction away from the shore and toward the body of water bounded by the shore.

(10) "Structure" means any structure, work, or improvement constructed on, affixed to, or worked on coastal public land, including fixed or floating piers, wharves, docks, jetties, groins, breakwaters, artificial reefs, fences, posts, retaining walls, levees, ramps, cabins, houses, shelters, landfills, excavations, land canals, channels, and roads.

(11) "Submerged land" means any land extending from the boundary between the land of the state and the littoral owners seaward to the low-water mark on any saltwater lake, bay, inlet, estuary, or inland water within the tidewater limits, and any land lying beneath the body of water, but for the purposes of this chapter only, shall exclude beaches bordering on and the water of the open Gulf of Mexico and the land lying beneath this water.

(12) "Littoral owner," in this chapter only, means the owner of any public or private upland bordered by or contiguous to coastal public land.

[Acts 1977, 65th Leg., p. 2383, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.005. Effect of Chapter

(a) This subchapter does not repeal the following provisions of the Parks and Wildlife Code: Chapters 83 and 86, Subchapter A of Chapter 46, Subchapter A of Chapter 76, Subchapter D of Chapter 76, Subchapter B of Chapter 81, Subchapter G of Chapter 82, Subchapter C of Chapter 216, or Sections 66.101, 66.107, 66.112 through 66.118, 66.205, 76.031 through 76.036, 78.001 through 78.003, 81.002, 136.047, 184.024, 201.015, or 335.025.

(b) None of the provisions of this chapter may be construed to alter, amend, or revoke any existing right granted pursuant to any law.

[Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 33.006 to 33.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 33.011. Board to Administer, Implement, and Enforce Chapter

The board is the executive agency of the state charged with the administration, implementation, and enforcement of this chapter.

[Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.012. Land Office to Assist Board

The planning division and other staff of the land office shall assist the board in the discharge of its responsibilities and duties under this chapter.

[Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.013. Additional Personnel

The commissioner may employ any additional personnel in the land office that may be necessary for the board to perform effectively its functions under this chapter.

[Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.014. Disposition of Money for Grants of Certain Interests

Money received by the board for grants of surface interests under this chapter whose initial term equals or exceeds 20 years shall be deposited in the State Treasury to the credit of the permanent school fund.

[Acts 1977, 65th Leg., p. 2384, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.015. Special Fund

A special fund is created, and money received by the board for the grant of permits under this chapter shall be deposited in the State Treasury to the credit of this special fund.

[Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.016. Disposition of Other Funds

Money received by the board for the grant of any interest not under Section 33.014 or 33.015 of this code shall be deposited in the State Treasury to the credit of the available school fund.

[Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 33.017 to 33.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**§ 33.051. General Duty**

The board, with the technical advice and assistance of the planning division and other staff of the land office, shall perform the duties provided in this subchapter.

[Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.052. Development of Management Program

The board shall develop a continuing comprehensive management program pursuant to the policies stated in Section 33.001 of this code.

[Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.053. Elements of Management Program

The management program, in compliance with the Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.), shall include the following elements:

(1) a continuous inventory of coastal public land and water resources including a determination of the extent and location of the coastal public land;

(2) a continuous analysis of the potential uses for which the coastal public land and water might be used, including recommendations as to which configurations of uses consonant with the policies of this chapter maximize the benefits conferred on the present and future citizens of Texas;

(3) guidelines on the priority of uses in coastal public land within the coastal area, including specifically those uses of lowest priority;

(4) a definition of the permissible uses of the coastal public land and water and definitions of the uses of adjacent areas which would have a significant adverse impact on the management or use of coastal public land or water;

(5) recommendations as to increments of jurisdiction or authority necessary to protect coastal public land and water from adverse consequences flowing from the uses of adjacent land;

(6) an inventory of endangered environments and resources in the coastal public land; and

(7) recommendations for any changes necessary in the organizational structure by which the program is implemented and administered.

[Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.054. Review and Amendment of Management Program

The board may review the management program periodically and may amend the management program as new information or changed conditions may warrant.

[Acts 1977, 65th Leg., p. 2385, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.055. Public Hearings to Consider Management Program

(a) In developing the management program, after due notice to littoral owners and the public generally, the board shall hold or have held public hearings in the number and at the locations it determines to be appropriate.

(b) In reviewing or amending the management program, the board may hold or have held public hearings in the manner provided in Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.056. Structures on Land Adjacent to Coastal Public Land

(a) On receipt of appropriate applications, the board shall register existing structures extending on coastal public land from adjacent land not owned by the state.

(b) Insofar as consonant with the policies of this chapter, the board may regulate the placement, length, design, and the manner of construction, maintenance, and the use of all structures which are built so that they extend on coastal public land from adjacent land not owned by the state.

[Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.057. Gifts of Interests in Land

(a) The board may accept gifts of interests in land, and these interests shall become part of the permanent school fund unless otherwise designated by the grantor.

(b) At the discretion of the board, the land may be managed as if it were coastal public land within the meaning of this chapter.

[Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.058. Purchase of Fee and Lesser Interests in Land

(a) The board may select and purchase fee and lesser interests in land of the coastal area for the creation, maintenance, or protection of wildlife refuges, estuarine preserves, natural scenic reserves, historical or archaeological sites, public recreational areas, and research facilities.

(b) The interests may be purchased by the board with money acquired by gift or grant, but the interests may not be obtained by condemnation.

(c) Interests acquired under this section shall not become a part of the permanent free school fund unless they are so designated by the board.

(d) In the discretion of the board, the interests may be managed as if they were coastal public land within the meaning of this chapter regardless of whether they fall within the meaning of coastal public land.

[Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.059. Studies

The board may study various coastal engineering problems, including the protection of the shoreline against erosion, the design and use of piers, groins, seawalls, and jetties, and the effects of various structures, works, and improvements on the physical and biological systems of the coastal public land.

[Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.060. Locating and Marking Boundaries

The board may locate and have marked on the ground the boundaries separating coastal public land from other land.

[Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.061. Complaints

(a) The board shall receive and evaluate any complaint or report from any person concerning instances of unauthorized construction, maintenance, use, or assertion of control of any structure on coastal public land.

(b) The board shall refer to the attorney general all cases warranting judicial remedies, and the attorney general shall immediately initiate judicial proceedings for the appropriate relief.

[Acts 1977, 65th Leg., p. 2386, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.062. Designated Official Representative

The board is designated and shall serve as the official representative of the governor of the state to conduct with the federal government any business concerning any matter affecting the coastal public land which arises out of the exercise by the federal government of any authority it may have over navigable water under the Constitution of the United States.

[Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.063. Fees

The board may prescribe reasonable filing fees and fees for granting leases, easements, and permits.

[Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.064. Rules

The board may adopt procedural and substantive rules which it considers necessary to administer, implement, and enforce this chapter.

[Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 33.065 to 33.100 reserved for expansion]

SUBCHAPTER D. RIGHTS IN COASTAL
PUBLIC LAND

§ 33.101. Application to Acquire Rights in Coastal Public Land

Any person who desires to acquire rights in the surface estate in any coastal public land shall make application to the board in writing in the form prescribed by the board.

[Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.102. Contents of Application

The application to acquire rights in coastal public land shall include:

- (1) an adequate legal description of the land in which the rights are sought;
- (2) a statement of the rights sought;
- (3) a statement of the purpose or purposes for which the land is to be used;
- (4) a description of the nature and extent of the improvements, if any, which will be made on the land;

(5) an estimate of the time within which any improvements to be made will be completed; and

(6) any additional information the board considers necessary, including, in the case of any application for approval of construction, modification, repair, or removal of a structure, a description of all plans for any filling, dumping, dredging, or excavating to be done.

[Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.103. Interests Which May be Granted by the Board

The board may grant the following interests in coastal public land for the indicated purposes:

- (1) leases for public purposes;
- (2) easements for purposes connected with ownership of littoral property;
- (3) permits authorizing limited continued use of previously unauthorized structures on coastal public land not connected with ownership of littoral property; and
- (4) channel easements to the holder of any surface or mineral interest in coastal public land for purposes necessary or appropriate to the use of the interests.

[Acts 1977, 65th Leg., p. 2387, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.104. Processing Application

(a) On receiving an application, the board may circulate it for review and comment to the member

agencies of the Interagency Natural Resources Council or its successor.

(b) The board shall determine whether the proposed application should be granted not less than 30 days nor more than 90 days after the application is received.

(c) If the application is granted, the board shall determine the reasonable term, conditions, and consideration for the grant and may consummate the transaction.

[Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.105. Persons to Whom Land May be Leased

The board may lease coastal public land to:

(1) the Parks and Wildlife Department or to any eligible city or county for public recreational purposes;

(2) the Parks and Wildlife Department for management of estuarine preserves;

(3) any nonprofit, tax-exempt environmental organization approved by the board for the purpose of managing a wildlife refuge; and

(4) any scientific or educational organization or institution for conducting scientific research.

[Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.106. Policies, Provisions, and Conditions of Leases

In addition to policies generally applicable under this chapter, leases granted under this subchapter shall be subject to the policies, provisions, and conditions stated in Sections 33.107 through 33.110 of this code.

[Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.107. Protection of Rights

The littoral rights of the adjacent upland owner shall be protected in a lease.

[Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.108. Rights of the Public

Members of the public may not be excluded from coastal public land leased for public recreational purposes or from an estuarine preserve.

[Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.109. Counties and Cities Eligible to Lease Coastal Public Land

(a) A county is eligible to apply for a lease of coastal public land inside the county and outside the boundaries of any incorporated city, town, or village for public recreational purposes.

(b) An incorporated city, town, or village is eligible to lease coastal public land within its corporate boundaries for public recreational purposes.

[Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.110. **Contracts and Franchises**

(a) With the approval of the board, a lessee granted a lease for public recreational purposes may enter into contracts and franchise agreements to promote public recreation.

(b) No contract or franchise agreement may authorize any commercial activity within 300 feet of privately owned littoral property without the written consent of the littoral owner of the property.

[Acts 1977, 65th Leg., p. 2388, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.111. **Granting Easements**

The board may grant easement rights to the owner of adjacent littoral property authorizing the placement or location of a structure on coastal public land for purposes connected with the ownership of littoral property.

[Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.112. **Failure to Obtain an Easement**

(a) Any owner of littoral property or any person acting under the owner of littoral property who for purposes connected with the ownership of the littoral property shall construct or fix or place on coastal public land any structure without first obtaining an easement from the land office is subject to a civil penalty of not more than \$200.

(b) Each day the structure remains on or is affixed to coastal public land constitutes a separate offense.

[Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.113. **Interpretation of Easement Grant**

The grant of an easement under Section 33.111 of this code and the waiver under Section 33.115 of this code shall not be construed as recognition of a right existing in the littoral owner incident to the ownership of littoral property.

[Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.114. **Policies, Provisions, and Conditions of Easements**

In addition to the policies, provisions, and conditions generally applicable in this chapter, each grant of an easement is subject to the policies, provisions,

and conditions of Sections 33.115 and 33.117 of this code.

[Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.115. **Piers**

(a) Without obtaining an easement from the board, the owner of littoral property may construct a pier which:

(1) may be used for any purpose except commercial purposes;

(2) is 100 feet or less in length and 25 feet or less in width; and

(3) requires no filling or dredging.

(b) The location and dimensions of the pier must be registered with the board in the manner provided in this chapter.

[Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.116. **Failure to Register Pier**

Any owner of littoral property who fails to register the location and dimensions of the pier which is authorized to be constructed under Section 33.115 of this code is subject to a civil penalty of not more than \$200.

[Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.117. **Public Policy of State to be Considered**

In administering Sections 33.111 through 33.115 of this code, the board shall consider the public policy of the state that the orderly use of privately owned littoral property in a manner consistent with the public policy of the state will not be impaired.

[Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.118. **Single Permit**

If the activity for which the easement is sought requires the littoral owner to seek one or more permits from any other agency or department of state government, the board may agree with the agency or department to issue a single document incorporating all rights and privileges of the applicant.

[Acts 1977, 65th Leg., p. 2389, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.119. **Issuance of Permits**

The board may issue permits authorizing limited continued use of previously unauthorized structures on coastal public land if the use is sought by one who is claiming an interest in the structure but is not incident to the ownership of littoral property.

[Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.120. Failure to Obtain a Permit

A person who maintains, uses, or repairs any structure for which a permit is required under Section 33.119 of this code without first obtaining a permit from the board is subject to a civil penalty of not less than \$50 nor more than \$1,000.

[Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.121. Unauthorized Structures

Any person who constructs, fixes, or places on coastal public land any unauthorized structure for purposes not connected with ownership of littoral property is subject to a civil penalty of not less than \$50 nor more than \$1,000.

[Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.122. Exception to Permit Requirement

No permit may be required for structures, excavations, or other similar structures as long as they are located wholly on the private littoral upland, even though the activities may result in the area being inundated by public water.

[Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.123. Policies, Provisions, and Conditions of Permits

In addition to the policies, provisions, and conditions generally applicable in this chapter, each grant of a permit is subject to the policies, provisions, and conditions of Sections 33.120 through 33.122 and 33.124 through 33.126 of this code.

[Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.124. Permits Prohibited for Certain Structures

The board may not grant a permit which authorizes the continued use of a structure located within 1,000 feet of:

- (1) privately owned littoral property, without written consent of the littoral owner;
- (2) any federal or state wildlife sanctuary or refuge; or
- (3) any federal, state, county, or city park bordering on coastal public land.

[Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.125. Automatic Revocation and Termination of a Permit

A permit that authorizes the continued use of a previously unauthorized structure on coastal public land is considered automatically revoked and terminated if the coastal public land on which the structure is located is:

- (1) subsequently leased for public purposes;
- (2) exchanged for littoral property under this chapter; or
- (3) conveyed to a navigation district as provided by law.

[Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.126. Termination of Permit by Board

Each permit shall provide that if the terms of the permit are broken, the permit may be terminated at the option of the board.

[Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.127. Terms and Renewal of Permits

Permits may be issued for a period of not more than five years and may be renewed at the discretion of the board.

[Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.128. Use of Previously Unauthorized Structures

Previously unauthorized structures for which permits are obtained may be used only for noncommercial, recreational purposes.

[Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.129. Prohibitions on the Grant of Permits

The board may not grant an application for a permit which would violate the public policy of this state as expressed in this chapter and may not grant a permit for any structure not in existence on August 27, 1973.

[Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.130. Repairs and Rebuilding

If a structure for which a permit is issued is severely damaged or destroyed by any means, no major repairs or rebuilding may be undertaken by the permit holder without the approval of the board.

[Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.131. Structures as Property of the State

A structure presently existing or to be constructed in the future for which a permit is required under this subchapter is the property of the state. Any construction, maintenance, or use of the structure other than as provided in this subchapter is declared to be a nuisance per se and is expressly prohibited.

[Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.132. Registration by Board

(a) The registration by the board on or before December 31, 1973, of a structure located in whole or in part on coastal public land on August 27, 1973, and claimed by the person submitting it for registration as an incident of the ownership of littoral property shall not be construed as evidence of the acquiescence of the state in the claim by the owner.

(b) Failure of the owner to register the structure estops the owner from making any further claim of right against the state in the structure and renders the structure a nuisance per se subject to abatement by the state at the expense of the littoral owner.

[Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.133. Remedies Cumulative

Remedies provided in this subchapter are cumulative of all other remedies which may be applicable, including those remedies arising from the power of a court to enforce its jurisdiction and its judgments.

[Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.134. Use and Development of Land by Littoral Owner

None of the provisions of this chapter shall prevent the littoral owner of property from developing or otherwise using his property in a lawful manner, and this chapter shall not be construed to confer on the board the authority to regulate, control, or restrict the use or development of the property.

[Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 33.135 to 33.170 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT AND APPEAL

§ 33.171. Enforcement of Rights of Littoral Owners

(a) A littoral owner whose rights may be affected by any action of the board under this chapter may bring suit for a declaratory judgment against the State of Texas in a district court in Travis County to try the issues.

(b) Service of citation may be obtained by serving the commissioner.

[Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.172. Venue

Unless expressly waived in writing by the attorney general, venue lies in Travis County in any proceeding:

(1) arising out of an alleged violation of any provision of this chapter or any rule adopted by the board under this chapter;

(2) touching any interest in land sought or granted under this chapter; and

(3) to determine the boundaries or title to any coastal public land.

[Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.173. Right to Appeal

Any interested party who is aggrieved by an action of the board under this chapter may appeal the action by filing a petition in a district court in Travis County.

[Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.174. Time for Filing Petition

The petition for the appeal must be filed within 30 days after the date of the final action of the board or 30 days after the effective date of the action, whichever is the later date.

[Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.175. Service of Citation

Service of citation on the board may be accomplished by serving the commissioner.

[Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 33.176. Issue on Appeal

In an appeal of a board action, the issue is whether the action is invalid, arbitrary, or unreasonable.

[Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBCHAPTER F. COASTAL COORDINATION

§ 33.201. Short Title

This subchapter may be cited as the Coastal Coordination Act of 1977.

[Acts 1979, 66th Leg., p. 1991, ch. 785, § 1, eff. June 13, 1979.]

§ 33.202. Policy

(a) It is declared to be the policy of this state to make more effective and efficient use of public funds and public facilities in coastal natural resource areas, and to better serve the people of Texas by:

(1) continually reviewing the principal coastal problems of state concern, the performance of state coastal programs, and the measures required to resolve identified coastal problems; and

(2) making the state's many existing coastal management processes more visible, accessible, and accountable to the people of Texas.

(b) It is declared to be the policy of this state that the chief executive officer of the state should represent the State of Texas in discussions and negotiations with the federal government with regard to the effect of federal actions on the coastal programs and policies of the State of Texas.

[Acts 1979, 66th Leg., p. 1991, ch. 785, § 1, eff. June 13, 1979.]

§ 33.203. Definitions

(a) In this subchapter:

(1) "Coastal natural resource areas" means areas in the Gulf of Mexico within the boundaries of this state, tidal inlets and tidal deltas, bays, lagoons which contain seawater and which have unimpaired connection with the Gulf of Mexico, oyster reefs, grassflats, channels which contain seawater, coastal lakes containing seawater, beaches adjacent to seawater, barrier islands, wind tidal flats, marsh which contains seawater, washover areas, sand dune complexes on the Gulf shoreline, river mouths and tidal streams up to the farthest point of intrusion by seawater, and spoil deposits in direct contact with seawater or located within, upon, or in direct contact with any of these coastal natural resource areas, but does not include any mainland area where seawater is present only during storms or hurricanes as defined by the Beaufort Wind Scale.

(2) "Council," means the Natural Resources Council created by the Natural Resources Council Act of 1977 (Article 4413(48), Vernon's Texas Civil Statutes).¹

(3) "Seawater" means any water containing a concentration of one-twentieth of one percent or more by weight of total dissolved inorganic salts derived from the marine water of the Gulf of Mexico.

(b) The definition in Subsection (a)(1) of this section is not admissible in evidence in any court of law for any purpose other than the implementation and construction of this subchapter unless otherwise agreed by all parties to the case or controversy before the court.

[Acts 1979, 66th Leg., p. 1991, ch. 785, § 1, eff. June 13, 1979.]

¹ Repealed; see, now, Civil Statutes, art. 4413(47c).

§ 33.204. Study of Coastal Problems and Issues

(a) The council shall make studies of problems and issues affecting the coastal natural resource areas of the state that are in the public interest.

(b) The council shall prepare and submit to the governor and legislature before March 1 of each even-numbered year a comprehensive report with recommendations for action on problems and issues

affecting the coastal natural resource areas of the state. The comprehensive report may include a minority report and recommendations and shall include:

(1) a short description of the environmental, social, and economic changes in or affecting the coastal natural resource areas of the state during the preceding two years, this description to include changes in boundaries and state or federal coastal policies;

(2) a statement of the principal problems of state concern in or affecting coastal natural resource areas;

(3) a statement of the steps recommended by the council to resolve identified problems, including additions to or changes in state policies, programs, or statutes affecting coastal natural resource areas, transfers of programs among agencies, and the creation of new programs or elimination of old ones;

(4) a review of the effectiveness of current programs for implementing state policy affecting coastal natural resource areas;

(5) a report on the success of actions taken by the council during the preceding two years, including public hearings, administration of federal grant funds, and specific studies; and

(6) recommended state coastal natural resource research and data acquisition priorities.

(c) The state agencies, university systems, other bodies, and elected officials represented on the council shall perform or have performed all research and analyses requested by the council for the preparation of the report and transmit the research and analyses to the council by such time as is necessary to ensure the timely submission of the council's finished report to the governor and legislature.

(d) In the course of preparing the report, the council shall receive and consider the oral or written testimony of any person regarding the coastal policies, programs, and procedures of the state. The council may reasonably limit the length and format of the testimony and the time at which it will be received. Notice of the period during which the testimony will be received shall be published in the Texas Register not less than 30 days before the commencement of that period.

[Acts 1979, 66th Leg., p. 1991, ch. 785, § 1, eff. June 13, 1979.]

SUBCHAPTER G. COASTAL WETLAND ACQUISITION

§ 33.231. Short Title

This subchapter may be cited as the Coastal Wetland Acquisition Act.

[Acts 1979, 66th Leg., p. 1993, ch. 785, § 2, eff. June 13, 1979.]

§ 33.232. Policy

It is the declared policy of the state:

(1) to protect the property rights of those who sell interests in land to the state by fairly compensating the sellers;

(2) to protect that coastal wetland which is most essential to the public interest by acquiring fee and lesser interests in the coastal wetland and managing it in a manner that will preserve and protect the productivity and integrity of the land as coastal wetland; and

(3) to assure that the state does not expend funds to acquire any coastal wetland to which it already holds a valid title at the time of the expenditure.

[Acts 1979, 66th Leg., p. 1993, ch. 785, § 2, eff. June 13, 1979.]

§ 33.233. Definitions

In this subchapter:

(1) "Acquiring agency" means the Parks and Wildlife Department.

(2) "Certifying agency" means the General Land Office.

(3) "Coastal wetland" means marshes and other areas of high biologic productivity where seawater is present during times other than and in addition to storms or hurricanes as defined by the Beaufort Wind Scale, but does not include any areas seaward of the line of mean annual low spring tide, nor any mainland area where seawater is present only during storms or hurricanes as defined by the Beaufort Wind Scale, and the presence at a given point of vegetation characteristic of marshes containing seawater is prima facie evidence that seawater is present at the point during times other than and in addition to storms or hurricanes as defined by the Beaufort Wind Scale.

(4) "Seaward" means the direction away from the shore and toward the body of water bounded by the shore.

(5) "Seawater" means any water containing a concentration of one-twentieth of one percent or more by weight of total dissolved inorganic salts derived from the marine water of the Gulf of Mexico.

[Acts 1979, 66th Leg., p. 1993, ch. 785, § 2, eff. June 13, 1979.]

§ 33.234. Duties and Authority of Acquiring Agency

(a) The acquiring agency shall do the following:

(1) accept gifts, grants, or devises of interests in land;

(2) acquire, by purchase or condemnation, fee and lesser interests in the surface estate in coastal wetland certified by the certifying agency as

most essential to protection of the public interest, provided that in each instance in which an interest in land is acquired by the acquiring agency pursuant to this section, a sufficient interest shall be acquired to preserve and protect the productivity and integrity of such land as coastal wetland; and

(3) manage interests in land acquired pursuant to this section in a manner that will preserve and protect the productivity and integrity of the land as coastal wetland.

(b) This subchapter shall not be construed to authorize the condemnation of any interest in the mineral estate in any coastal wetland.

(c) The acquiring agency shall promulgate reasonable rules and regulations necessary to preserve and protect the productivity and integrity of the land as coastal wetland acquired pursuant to this subchapter. The rules and regulations shall include regulations governing activities conducted on the land in conjunction with mineral exploration, development, and production.

(d) If the acquiring agency seeks to condemn an interest less than the fee interest in the surface estate in any coastal wetland, the owner of the coastal wetland may demand that the acquiring agency instead seek condemnation of the fee interest in the surface estate in the coastal wetland. Upon this demand, the acquiring agency shall either:

(1) seek to condemn the fee interest in the surface estate in the coastal wetland; or

(2) cease all condemnation proceedings pursuant to this subchapter against the coastal wetland.

[Acts 1979, 66th Leg., p. 1993, ch. 785, § 2, eff. June 13, 1979.]

§ 33.235. Agricultural Exemption

Coastal wetland used only for farming or ranching activities, including maintenance and repair of buildings, earthworks, and other structures, shall not be subject to any power of condemnation exercised pursuant to this subchapter. However, this exemption from condemnation shall terminate upon the receipt by any state or federal agency of an application for a permit, license, or other authorization to conduct on the wetland, activities other than farming and ranching activities, including irrigation and water well drilling, and activities necessary to exploration, development, or production of the underlying mineral estate.

[Acts 1979, 66th Leg., p. 1993, ch. 785, § 2, eff. June 13, 1979.]

§ 33.236. Duties and Authority of Certifying Agency

(a) The certifying agency shall do the following:

(1) certify to the acquiring agency that coastal wetland which is most essential to the public interest in accordance with the criteria in this subchapter, assign priorities for acquisition of interests in the coastal wetland, and revoke certification made pursuant to this section when it is in the public interest to do so; and

(2) publicize the importance to the public interest of coastal wetland in general, and of designated coastal wetland in particular.

(b) A certification, assignment of priority for acquisition, or revocation of certification made pursuant to this subchapter does not constitute a "contested case" within the meaning of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) The commissioner of the General Land Office shall forward a copy of any certification to the county judge of every county in which any part of the wetland certified is located and shall request the recommendation of the commissioners of the county on the certification.

(d) Within 45 days of receipt of a certification from the commissioner of the General Land Office, the commissioners court shall send to the commissioner of the General Land Office written recommendations concerning the certification.

(e) If the commissioners court of a county described in Subsection (c) of this section agrees that the portion of the certified wetland within the county should be certified, or if the commissioners court does not submit recommendations to the commissioner of the General Land Office within the time specified in Subsection (d) of this section, then as to that portion of the wetland, the certification shall continue in full force and effect.

(f) If the commissioners court of any county described in Subsection (c) of this section recommends that certified wetland or any part of it within the county should not be certified, the certification shall be revoked as to that part of the wetland.

(g) If the commissioner of the General Land Office wishes to contest a revocation of certification pursuant to Subsection (f) of this section, he shall forward the certification to the governor, together with the recommendations of the commissioners courts and any further information the commissioner of the General Land Office shall deem advisable.

(h) If the governor determines that any certification revoked pursuant to Subsection (f) of this section should be reinstated in whole or in part, he shall notify the commissioner of the General Land Office within 60 days of receipt of the certification pursuant to Subsection (g) of this section. Upon receipt of notice from the governor, the commissioner of the General Land Office may recertify the

part of the wetland to the acquiring agency, and the certification shall be in full force and effect.

[Acts 1979, 66th Leg., p. 1993, ch. 785, § 2, eff. June 13, 1979.]

§ 33.237. Most Essential Coastal Wetland Certification

(a) In selecting and certifying coastal wetland most essential to the public interest, and in assigning priorities of acquisition to coastal wetland, the certifying agency shall consider the following criteria:

(1) whether the land is coastal wetland within the definition, intent, and purpose of this subchapter;

(2) whether the state owns the coastal wetland or claims title to it, which title can be validated by bringing an appropriate action in a court of law;

(3) whether the biological, geological, or physical characteristics of the coastal wetland, including the interrelationship of the coastal wetland with other coastal wetland, is essential to the public interest;

(4) the degree to which the coastal wetland is in danger of being altered, damaged, or destroyed, and the imminence of that danger; and

(5) the cost of acquiring the coastal wetland.

(b) The legislature declares that certifications, assignments of priority for acquisition, and revocations of certifications made pursuant to Section 33.235 of this code are made only for the purpose of administering the provisions of this subchapter. No certifications, assignments of priority for acquisition, or revocations of certification shall be grounds for an inference, or admissible in a court of law to prove, that any coastal wetland is of greater or lesser value than any other coastal wetland for any purpose other than administering the provisions of this subchapter.

(c) A certification made pursuant to this subchapter shall expire one year from the date of certification.

(d) If on or before the expiration date of such certification the acquiring agency files suit in a court of law to condemn the certified coastal wetland, the certification shall extend until the suit is settled, dismissed, or otherwise terminated.

(e) If a contract of sale between the state and the owner of the certified coastal wetland is entered into on or before the expiration date of the certification, the certification shall extend until title to the coastal wetland is conveyed to the state or the contract is rescinded, invalidated, or otherwise terminated.

[Acts 1979, 66th Leg., p. 1993, ch. 785, § 2, eff. June 13, 1979.]

§ 33.238. Funding

The acquiring agency may compensate the seller of land acquired pursuant to this subchapter with funds obtained through:

- (1) gift, grant, or devise;
- (2) legislative appropriation; or
- (3) gift or grant from the United States.

[Acts 1979, 66th Leg., p. 1993, ch. 785, § 2, eff. June 13, 1979.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 34.001. Definitions

In this chapter:

- (1) "Board" means a board for lease.
- (2) "Commissioner" means the Commissioner of the General Land Office.
- (3) "Land office" means the General Land Office.

[Acts 1977, 65th Leg., p. 2394, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.002. Application of Chapter

(a) The provisions of this chapter do not apply to:

- (1) land dedicated by the constitution and laws of the state to the public school fund;
- (2) land dedicated by the constitution and laws of the state to The University of Texas, or land donated to the Board of Regents of The University of Texas System, as trustees, by a will, instrument in writing, or otherwise in trust for a scientific, educational, or other charitable or public purpose, or to any other land under the control of the Board of Regents of The University of Texas System;

(3) land whose title is vested in the state for use and benefit of any part of The Texas A&M University System, or land under the control of the Board of Regents of The Texas A&M University System;

(4) land subject to lease under the provisions of Subchapter F, Chapter 52, of this code, commonly known as the "Relinquishment Act";¹

(5) land owned by the state that was acquired to construct or maintain a highway, road, street, or alley; or

(6) land owned by the state under the jurisdiction or control of the State Highway and Public Transportation Commission.

(b) Notwithstanding Subsection (a), the provisions of this chapter do apply to the leasing of the following types of land for the development of minerals other than oil and gas:

(1) land owned by the state that was acquired to construct or maintain a highway, road, street, or alley; or

(2) land owned by the state under the jurisdiction or control of the State Highway and Public Transportation Commission.

(c) If title to land subject to the provisions of the Relinquishment Act is acquired by a department, board, or agency of the state, the land is not subject to lease by a board created under the provisions of this chapter but shall be leased in the manner

provided for the leasing of unsold public school land.

[Acts 1977, 65th Leg., p. 2394, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2572, ch. 686, § 1, eff. Aug. 31, 1981.]

¹ Section 52.171 et seq.

Section 3 of the 1981 amendatory act provides:

"This Act does not affect leases in existence on the effective date of this Act."

[Sections 34.003 to 34.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 34.011. Boards for Lease

Boards for lease are created to lease land owned by a department, board, or agency of the State of Texas.

[Acts 1977, 65th Leg., p. 2394, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Application of Sunset Act

Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.095, purports to add § 1a to Civil Statutes, art. 5332d, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so added, § 1a reads:

"The Boards for Lease of State-Owned Lands are subject to the Texas Sunset Act [Civil Statutes, art. 5429k]; and unless each board is continued in existence as provided by that Act the board is abolished effective September 1, 1985."

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

§ 34.012. Title of Board

The title of each board shall be selected by each board for lease at its first meeting.

[Acts 1977, 65th Leg., p. 2394, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.013. Members of Board

(a) The membership of each board shall include:

- (1) the commissioner;
- (2) one citizen of the state appointed by the governor with the advice and consent of the senate; and
- (3) the president or chairman of the board or agency or head of the department charged with the responsibility of management or control of

land owned by or held in trust for the use and benefit of the department, agency, or board.

(b) The appointed member serves for a term of two years.

[Acts 1977, 65th Leg., p. 2394, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.014. Officers of Board

(a) The commissioner is the chairman of the board.

(b) Each board shall select a secretary who shall be nominated by the commissioner and approved by a majority of the board.

[Acts 1977, 65th Leg., p. 2395, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.015. Quorum

A majority of a board constitutes a quorum for the transaction of business.

[Acts 1977, 65th Leg., p. 2395, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.016. Records of Board

A board shall keep a complete record of all of its proceedings.

[Acts 1977, 65th Leg., p. 2395, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.017. Special Mineral Funds

Special funds are created in the State Treasury to be known as the "(appropriate department, board, or agency) special mineral fund."

[Acts 1977, 65th Leg., p. 2395, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.018. Deposit of Receipts

Amounts received under the provisions of this chapter shall be deposited in the State Treasury to the credit of the appropriate special fund, with the exception that all money received under the provisions of this chapter enuring to the benefit of the Parks and Wildlife Department from land held by the department for game and fish conservation, protection, and management purposes shall be deposited in the State Treasury to the credit of the special game and fish fund, and all money received under the provisions of this chapter enuring to the benefit of the Parks and Wildlife Department from park, recreation, and historic land shall be deposited in the State Treasury to the credit of the state parks fund.

[Acts 1977, 65th Leg., p. 2395, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.019. Expenditures

(a) The expenses of executing the provisions of this chapter shall be paid by warrants drawn by the comptroller on the State Treasury against the in-

come from the special funds accumulated from leases, rentals, royalties, and other payments.

(b) The amounts received under the provisions of this chapter and deposited to the credit of a special fund shall be used exclusively for the benefit of the appropriate department, board, or agency.

(c) No money may be spent from the special funds except by legislative appropriation and for the purposes and in the amount stated in the Act appropriating it.

[Acts 1977, 65th Leg., p. 2395, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.020. Filing in General Land Office

All surveys, files, records, abstracts of title, copies of sale and lease contracts, and all other records pertaining to sales and leases authorized under the provisions of this chapter shall be filed in the land office and constitute archives.

[Acts 1977, 65th Leg., p. 2395, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 34.021 to 34.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 34.051. Land Subject to Lease

Land owned by or held in trust for the use and benefit of a department, board, or agency may be leased by the appropriate board to any person under the provisions of this chapter 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.

[Acts 1977, 65th Leg., p. 2395, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.052. Subdivision of Land

A board may have the land subject to its control surveyed or subdivided into tracts, lots, or blocks which will, in its judgment, be most conducive and convenient to facilitate the advantageous sale of oil, gas, or mineral leases.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.053. Maps and Plats

A board may make maps and plats it considers necessary to carry out the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.054. Abstracts of Title

A board may obtain authentic abstracts of title to the land subject to its control that it considers

necessary and may take the necessary steps to perfect a marketable title to the land.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.055. Geological Surveys and Investigations

A board may issue a permit for geological, geophysical, and other surveys and investigations on land subject to lease by the board that is not under valid and existing leases and that will encourage the development of the land for oil, gas, or other minerals. A permit may be issued for a consideration and under terms and conditions which the board considers to be in the best interest of the state.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.056. Placing Lease on Market

If a board determines there is a demand for the purchase of oil, gas, or mineral leases on a lot or tract of land subject to the control of the board which will reasonably insure an advantageous sale, the board shall place the oil, gas, or mineral leases on the market in the tract or tracts which the board may designate.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.057. Advertisement of Lease

A board shall insert an advertisement that leases will be offered for sale on a certain date in at least three issues of each of four daily newspapers 30 days in advance of the sale date. The advertisement shall give notice that lists describing the land to be leased may be obtained from the land office.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.058. Minimum Royalty, Bonus, and Rental

(a) A bid shall not be accepted which offers:

- (1) a royalty of less than one-eighth of the gross production of oil, gas, or other minerals; or
- (2) a cash bonus of less than \$2 an acre.

(b) The minimum royalty and bonus may be increased at the discretion of the board.

(c) A bid shall contain an obligation to pay at least \$1 an acre annual rental beginning with the second year of the lease, with the amount to be set by the board in advance of the advertisement.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.059. Fixing Royalty, Bonus, and Rental

A board may:

- (1) set the royalty and rental and provide for bidding on a basis of the highest cash bonus offered; or

(2) set the cash bonus and rental and provide for bidding on the basis of the highest royalty offered.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.060. Bids

(a) Bidding shall be by sealed bids to be opened at 10 a. m. on the sale date by a majority of the board.

(b) A separate bid shall be made for each tract offered for lease.

(c) The bid shall state the amount of cash bonus offered and the royalty and rental provided.

(d) The bid shall be accompanied by cash or checks, collectible in Austin and payable to the commissioner, to cover the amount of the cash bonus.

[Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.061. Special Fee

(a) In addition to the payment accompanying a bid as provided in Subsection (d) of Section 34.060 of this code, a bidder on a mineral lease sale held by a board shall remit a special sale fee by separate check in an amount equal to one percent of the bid in the manner provided in Section 32.110 of this code.

(b) Failure to pay the special fee does not render the bid void, but the commissioner shall demand payment of the fee before he issues a lease to the successful bidder.

(c) If the successful bidder fails or refuses to pay the fee within 30 days after demand is made by the commissioner, the bidder is not entitled to a lease on the tract covered by his bid and the cash bonus is automatically forfeited to the state. The commissioner shall deposit the bonus in the State Treasury to the appropriate fund.

(d) Special fee checks submitted by unsuccessful bidders shall be returned to the bidders together with their bid checks.

[Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.062. Rejection and Acceptance of Bids

(a) A board may reject all bids.

(b) Unless a board elects to reject all bids, it must accept the highest bid submitted.

(c) The minutes of a board shall show the fact of acceptance or rejection of a bid, and the approval of the minutes constitutes the approval of the act of acceptance or the act of rejection, as the case may be.

[Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.063. Issuance of Lease

The commissioner shall issue awards or leases in accordance with the minutes as approved by each board.

[Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.064. Easements

(a) A board may grant easements on the land covered by the provisions of this chapter for irrigation canals, laterals, flumes and ditches, telephone, telegraph, and electric power lines, and pipelines for the gathering or transportation of oil, gas, water, and other fluids or substances, together with the devices, equipment, and appurtenances which may be necessary.

(b) The easements may be granted on terms and conditions the board considers to be in the best interest of the state.

(c) The provisions of this section do not apply to land owned by the state as a part of the penitentiary system and do not repeal Chapter 166, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 6203d, Vernon's Texas Civil Statutes).

[Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 34.065 to 34.100 reserved for expansion]

SUBCHAPTER D. CONDITIONS OF LEASES

§ 34.101. Separate Leases

Leases for minerals, except oil and gas, shall be granted on separate leases and for separate consideration.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.102. Term of Lease

A lease issued by the commissioner shall be for a primary term of not to exceed five years and as long thereafter as oil, gas, or other minerals covered by the lease are produced in paying quantities.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.103. Assignment

(a) All rights purchased may be assigned.

(b) An assignment must be recorded in the county or counties in which the area is located.

(c) The recorded assignment or a certified copy of the recorded assignment shall be filed in the land office within 100 days from the date of the first acknowledgment of the assignment, accompanied by 10 cents an acre for each acre assigned and a filing fee set by the board in an amount not less than \$1.

The assignment is not effective if it is not filed and the fee paid in accordance with this section.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 402, ch. 81, § 21(b), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 34.104. Relinquishment of Lease

(a) Rights to a whole tract or to an assigned portion of a tract may be relinquished to the state at any time by recording an instrument of relinquishment in the county or counties in which the area is located and filing the recorded relinquishment or a certified copy of the recorded relinquishment in the land office, accompanied by a filing fee set by the board in an amount not less than \$1.

(b) A relinquishment does not release the lessee from an obligation or liability already accrued in favor of the state.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 402, ch. 81, § 21(b), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 34.105. State Laws and Orders of Regulatory Authority

Drilling or mining operations for oil, gas, or other minerals and the production of oil, gas, or other minerals under a lease issued under the authority of this chapter are subject to:

- (1) the laws of the state;
- (2) 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
- (3) regulations which the board may adopt.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 34.106 to 34.140 reserved for expansion]

SUBCHAPTER E. RENTAL AND ROYALTY PAYMENTS

§ 34.141. Annual Rental

(a) Beginning with the second year of the lease, the lessee shall pay the annual rental specified by the board each year during the life of the lease, unless oil, gas, or other minerals are being produced in paying quantities.

(b) If royalties paid during any year of the life of the lease equal or exceed the annual rental, no annual rental is due for the following year.

(c) If royalties paid during the preceding year do not equal or exceed the annual rental, the annual rental is the amount specified by the board less the amount of royalties paid during the preceding year.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.142. Due Date for Payment

(a) Annual rental is due and payable on or before the anniversary date of the lease.

(b) Royalty payments shall be paid on or before the last day of each month following the month in which the oil, gas, or other minerals are produced.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.143. Payment to Commissioner

The rental and royalty payments shall be paid to the commissioner at Austin.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.144. Statements Accompanying Payment

A payment 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 the production, together with copies of all daily gauges of tanks, gas meter readings, pipeline run tickets and receipts, and other checks or memoranda of the amounts produced.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.145. Records Subject to Inspection

The books, accounts, records, and contracts relating to producing, transporting, selling, and marketing the oil, gas, or other minerals are subject to inspection and examination at all times by the commissioner, the attorney general, and the chairman, president, or other member of the board, or the representative of either of them.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.146. State's Lien on Minerals

The state has a first lien on oil, gas, or other minerals produced from the area covered by the lease to secure the payment of all unpaid royalty or other sums of money that may be due under the lease.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 34.147 to 34.180 reserved for expansion]

SUBCHAPTER F. DUTIES OF LESSEE

§ 34.181. Duty to Develop

The lessee shall reasonably develop the lease by drilling or mining to the extent the facts justify.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.182. Protection From Drainage

The lessee shall adequately protect the oil, gas, or other minerals under the land covered by the lease from drainage from adjacent land or leases.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.183. Effect of Payment on Obligation

The payment of the bonus, rentals, or royalties under the lease does not relieve the lessee of the obligation to develop the lease and protect the oil, gas, or other minerals from drainage.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.184. Offset Drilling

(a) If oil or gas is produced in paying quantities from a well on privately owned land and the well is within 1,000 feet of the area covered by the lease, or in any case if the land covered by the lease is being drained, the lessee shall begin in good faith the drilling of an offset well on the area covered by his lease within 60 days after initial production on the private land and shall diligently prosecute the drilling.

(b) The offset well shall be drilled to the depth necessary to prevent the undue drainage of the area covered by the lease.

(c) The lessee, manager, or driller shall use all means reasonably necessary in a good-faith effort to make the offset well produce in paying quantities.

[Acts 1977, 65th Leg., p. 2400, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 34.185. Forfeiture of Lease

(a) A lease is subject to forfeiture by the commissioner if:

(1) the owner of the rights acquired under the provisions of this chapter fails or refuses to make the payment of a sum due as rental on the lease or for royalty on production within 30 days after it becomes due;

(2) the owner or his authorized agent knowingly makes a false return or false report concerning production, royalty, or drilling;

(3) the owner fails or refuses to drill an offset well or wells in good faith as required by his lease and the rules adopted by the board;

(4) the owner or his agent refuses the proper authority access to the records and other data pertaining to operations under his lease;

(5) the owner or his authorized agent knowingly fails to furnish the log of a well within 30 days after production is found in paying quantities; or

(6) any of the material terms of the lease are violated.

(b) If a lease is forfeited, the area is subject again to lease to the highest bidder under the same rules controlling the original sale of leases.

(c) A forfeiture may be set aside and the lease and all rights under the lease reinstated at any time before the rights of a third party intervene on satisfactory evidence to the commissioner of future compliance with the provisions of this chapter and the rules adopted relative to this chapter.

[Acts 1977, 65th Leg., p. 2400, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 35.001. Definitions

In this chapter:

- (1) "Board" means the Board for Lease of State Park Lands.
 (2) "Commissioner" means the Commissioner of the General Land Office.
 (3) "Land office" means the General Land Office.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.002 to 35.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 35.011. Board for Lease of State Park Lands

A board to be known as the Board for Lease of State Park Lands is created to perform the duties prescribed in this chapter.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.012. Members of Board

- (a) The board consists of:
 (1) the commissioner;
 (2) one citizen of the state appointed by the attorney general with the advice and consent of the senate; and
 (3) the chairman of the Parks and Wildlife Commission.
 (b) The appointed member serves for a term of two years.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.013. Quorum

A majority of the board constitutes a quorum with power to act in all cases except as otherwise provided in this chapter.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.014. Records of Board

The board shall keep a complete written record of all its proceedings.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.015. Rules

The board shall adopt proper rules, forms, and contracts that in its judgment will protect the income from land leased under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.016. Expenditures From State Park Development Fund

- (a) The state park development fund is created.
 (b) All money deposited in the state park development fund shall be appropriated by the legislature for the development, improvement, and maintenance of state parks.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.017. Filing in Land Office

All surveys, files, records, copies of sale and lease contracts, and all other records relating to the sales and leases authorized on state park land under the jurisdiction of the Parks and Wildlife Department shall be filed in the land office and constitute archives.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.018 to 35.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 35.051. Land Subject to Lease

Subject to the provisions of this chapter, the board may lease land to any person for prospecting or exploring for and mining, producing, storing, caring for, transporting, preserving, and disposing of oil and gas. The board may lease all land or parcels of land within a park that is a part of the state park system.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 211, ch. 118, § 1, eff. May 9, 1979.]

Section 2 of the 1979 amendatory act provided:

"All leases of park land entered into by the Board for Lease of State Park Lands before the effective date of this Act are in all things and all respects ratified, confirmed, approved, and validated. This section does not apply to any litigation in progress that questions the validity of a lease of park land if the litigation is ultimately determined against the validity of the lease."

§ 35.052. Subdivision of Land

The board may have state park land surveyed and subdivided into lots or blocks which will be conducive or convenient to facilitate the advantageous sale of oil or gas leases. The board may identify the lots and blocks by permanent markings on the ground.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.053. Maps and Plats

The board may make the maps and plats it considers necessary to carry out the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.054. Abstracts of Title

The board shall obtain abstracts of title to the state park land.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.055. Examination and Perfection of Title

(a) The board shall have the abstracts of title examined by the attorney general, who shall file written title opinions.

(b) The board shall take the necessary steps to perfect a marketable title to the land in the State of Texas.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.056. Filing Abstract of Title and Title Opinion

The abstract of title and the attorney general's title opinion shall be filed in the land office as public documents for the inspection of prospective purchasers of oil and gas leases on the land.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.057. Placing Lease on Market

If the board determines there is a demand for the purchase of oil and gas leases on a lot or tract of land that will reasonably ensure an advantageous sale, the board may place the oil and gas in the land on the market in the blocks or lots which the board may designate.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.058. Advertisement of Lease

(a) The board shall advertise a brief description of the land from which the oil and gas is proposed to be sold. The advertisement shall give notice that sealed bids for the purchase of the oil and gas by

lease will be opened at 10 a. m. on the designated day and that sealed bids received up to that time will be considered.

(b) The advertisement shall be made by:

(1) publication in two or more papers of general circulation in the state; and

(2) mailing a copy of the advertisement to the county clerk and county judge of every county in the state in which an advertised area is located.

(c) In addition to the provisions of Subsection (b) of this section, the board may have the advertisement placed in oil and gas journals in and out of this state and mailed generally to persons the board thinks may be interested.

[Acts 1977, 65th Leg., p. 2404, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.059. Minimum Royalty and Rental

(a) A bid may not be accepted which offers a royalty of less than one-eighth of the gross production of oil and gas in the land covered by the bid. If all members concur, the board may increase the minimum royalty or before the promulgation of the advertisement of the land.

(b) A bid shall contain an obligation to pay at least \$1 an acre rental for delay in drilling, with the amount to be set by the board in advance of the advertisement.

[Acts 1977, 65th Leg., p. 2404, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.060. Bids

(a) A bid shall be directed to the board in care of the land office, retained by the commissioner until the day designated for opening the bids, and opened on that day by the board, or a majority of its members, who shall list, file, and register all bids and money received.

(b) A separate bid shall be made for each survey or subdivision of a survey.

(c) The bid shall state the amount of royalty offered and the amount the bidder is willing to pay in addition to the royalty and annual delay rentals provided for in this subchapter.

(d) The bid shall be accompanied by cash or checks, collectible in Austin, to cover the amount which the bid offers in addition to the royalty and delay rentals, and a payment equal to the minimum delay rental fixed on the land per acre if the bid is accepted.

[Acts 1977, 65th Leg., p. 2404, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.061. Rejection and Acceptance of Bids

(a) If a bidder offers a reasonable and proper price, and less than the price set by the board, the land advertised, or a whole survey or subdivision,

may be leased for oil and gas purposes under the terms of this chapter and rules which the board may prescribe, not inconsistent with the provisions of this chapter.

(b) The board may reject all bids and may withdraw any land advertised for lease before receiving and opening bids.

(c) If the board rejects all bids after a bidding by sealed bids, it may offer for sale and sell the oil and gas in the land, in separate whole surveys only or subdivisions of them, by open public auction at a price less than the price offered by the sealed bids.

(d) If there is no sale at public auction, the subsequent procedure for the sale of oil and gas leases is in the manner provided in the previous sections of this subchapter.

(e) If the board determines that a satisfactory bid has been received for the oil and gas, it shall file the bid in the land office.

[Acts 1977, 65th Leg., p. 2404, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.062. **Necessary Facilities**

The board shall authorize the laying of a pipeline or telephone line and the opening of roads over state park land which it considers reasonably necessary for and incident to the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.063 to 35.100 reserved for expansion]

SUBCHAPTER D. **CONDITIONS OF LEASES**

§ 35.101. **Term of Lease**

If oil or gas is discovered in paying quantities on a tract of land covered by a lease, the lease on that tract remains in force, and title to all rights purchased may be held by the owners, as long as oil or gas is produced in paying quantities from the tract. If oil or gas is not produced in paying quantities before the expiration of three years, the lease terminates.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.102. **Assignment of Lease**

(a) All rights purchased may be assigned in quantities of not less than 40 acres, unless there are fewer than 40 acres remaining in a survey, in which case the lesser area may be assigned.

(b) An assignment shall be filed in the land office within 100 days after the date of the first acknowledgment, accompanied by 10 cents an acre for each

acre assigned. If the assignment is not filed and payment made, the assignment is ineffective.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.103. **Relinquishment of Lease**

(a) All rights to a whole survey or to an assigned portion of a survey may be relinquished to the state at any time by recording an instrument of relinquishment in the county or counties in which the area is located and filing it in the land office, accompanied by a \$1 fee for each area assigned.

(b) The assignment does not relieve the owner of an obligation which has already accrued.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.104 to 35.130 reserved for expansion]

SUBCHAPTER E. **RENTAL AND ROYALTY PAYMENTS**

§ 35.131. **Annual Rental**

(a) The lessee shall pay the annual delay rental every year for three years unless there is production in paying quantities on the land.

(b) If the royalties paid equal or exceed the annual rental fixed by the board, the payment of annual rental may be discontinued.

(c) If during the term of a lease issued under the provisions of this chapter the lessee is engaged in actual drilling operations for the discovery of oil and gas on land covered by the lease, no rental is payable on the tract on which the operations are being conducted as long as the operations are proceeding in good faith.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.132. **Due Date for Payment**

Royalty and bonus stipulated in the sale shall be paid on or before the last day of each month for the preceding month during the life of the rights purchased.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.133. **Recipient of Payment**

Royalty, bonus, delay rental, and other payments made under the provisions of this chapter, and royalty, bonus, delay rental, and other payments derived from park lands operated by local park commissions with the advice and consent of the board of control, shall be paid to the commissioner at Austin. The commissioner shall transmit to the State Treasurer for deposit to the credit of the state park development fund all royalty, bonus, rental, and other payments, including filing assignments

and relinquishment fees, and royalty, bonus, rental, and other payments derived from park land operated by local park commissions.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.134. Statements Accompanying Payment

The payment shall be accompanied by the sworn statement of the owner, manager, or other authorized agent, showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises, and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools, and gas lines or gas storage.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.135. Records Subject to Inspection

The books, accounts, receipts, and discharges of oil wells, tanks, pools, meters, and pipelines, and all contracts and other records relating to producing, transporting, selling, and marketing the oil and gas are subject to inspection and examination at all times by the commissioner, the attorney general, or any member of the Parks and Wildlife Department.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.136. State's Lien

The state has a first lien on all oil and gas produced on the leased area, and on all rigs, tanks, pipelines, telephone lines, machinery, and appliances used in the production and handling of oil and gas produced on the leased area, to secure any amount due from the owner of the lease.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.137 to 35.170 reserved for expansion]

SUBCHAPTER F. DUTIES OF LESSEE

§ 35.171. Duty to Develop and Prevent Drainage

(a) If the area in which oil or gas is sold is contiguous to or adjacent to land which is not state park land, the acceptance of the bid and the sale constitute an obligation on the owner of the lease to adequately protect the land leased from drainage from adjacent land.

(b) If oil or gas is discovered on a tract covered by a lease issued under the provisions of this chapter, or on land adjoining the leased tract, the lessee shall conduct the operations necessary to prevent drainage from the tract covered by the lease and properly develop the tract.

(c) If the oil or gas in the area is sold at a lesser royalty, the owner shall protect the state from drainage from the land leased or sold for lesser royalty.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.172. Forfeiture of Lease

(a) The board may forfeit a lease by an order entered on the minutes of the board reciting the facts constituting the default and declaring the forfeiture.

(b) A lease is subject to forfeiture if:

(1) the owner of the rights acquired under this chapter fails to protect the land from drainage;

(2) the owner fails or refuses to make the payment of an amount due as rental on the lease or royalty on the production within 30 days after it becomes due;

(3) the owner or his authorized agent makes a false return or false report concerning production, royalty, or drilling;

(4) the owner fails or refuses to drill an offset well or wells in good faith as required by his lease;

(5) the owner or his agent refuses the proper authority access to the records and other data pertaining to the operations under the provisions of this chapter;

(6) the owner or his authorized agent fails or refuses to give correct information to the proper authority, or fails or refuses to furnish the log of a well within 30 days after production is found in paying quantities; or

(7) any of the material terms of the lease are violated.

(c) The board may have suit for forfeiture instituted by the attorney general.

(d) On proper showing by the forfeiting owner within 30 days after the declaration of forfeiture, the board may reinstate the lease on terms which it prescribes.

[Acts 1977, 65th Leg., p. 2407, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 35.173. Suit for Damages or Specific Performance

Forfeiture of the lease is not the exclusive remedy available to the state. If the owner violates the lease contract, the state may institute suit for damages or specific performance.

[Acts 1977, 65th Leg., p. 2407, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 36. BOARD FOR LEASE OF
ELEEMOSYNARY AND STATE
MEMORIAL PARK LANDS**

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

36.001. Definitions.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 36.011. Board for Lease of Eleemosynary and State Memorial Lands.
- 36.012. Members of Board.
- 36.013. Quorum.
- 36.014. Records of Board.
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SUBCHAPTER C. POWERS AND DUTIES

- 36.051. Land Subject to Lease.
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- 36.057. Placing Lease on Market.
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- 36.061. Rejection and Acceptance of Bids.
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SUBCHAPTER D. CONDITIONS OF LEASES

- 36.101. Term of Lease.
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**SUBCHAPTER E. RENTAL AND ROYALTY
PAYMENTS**

- 36.131. Annual Rental.
- 36.132. Due Date for Payment.
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- 36.134. Statements Accompanying Payment.
- 36.135. Records Subject to Inspection.
- 36.136. State's Lien.

SUBCHAPTER F. DUTIES OF LESSEE

- 36.171. Duty to Develop and Prevent Drainage.
- 36.172. Forfeiture of Lease.
- 36.173. Suit for Damages or Specific Performance.

SUBCHAPTER A. GENERAL PROVISIONS

§ 36.001. Definitions

In this chapter:

- (1) "Board" means the Board for Lease of Eleemosynary and State Memorial Park Lands.
- (2) "Eleemosynary land" means land under the control and management of the Texas Department of Mental Health and Mental Retardation.
- (3) "Commissioner" means the Commissioner of the General Land Office.

(4) "Land office" means the General Land Office.

[Acts 1977, 65th Leg., p. 2408, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 36.002 to 36.010 reserved for expansion]

**SUBCHAPTER B. ADMINISTRATIVE
PROVISIONS**

**§ 36.011. Board for Lease of Eleemosynary and
State Memorial Lands**

A board to be known as the Board for Lease of Eleemosynary and State Memorial Lands is created to perform the duties prescribed in this chapter.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.012. Members of Board

(a) The board consists of:

- (1) the commissioner;
- (2) one citizen of the state appointed by the governor with the advice and consent of the senate; and
- (3) the chairman of the Texas Board of Mental Health and Mental Retardation.

(b) The appointed member serves for a term of two years.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.013. Quorum

A majority of the board constitutes a quorum with power to act in all cases except as otherwise provided in this chapter.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.014. Records of Board

The board shall keep a complete written record of all its proceedings.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.015. Rules

The board shall adopt proper rules, forms, and contracts that in its judgment will protect the income from land leased under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.016. Filing in Land Office

Surveys, files, records, copies of sale and lease contracts, and other records relating to the sales and leases authorized under the provisions of this

chapter shall be filed in the land office and constitute archives.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 36.017 to 36.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 36.051. Land Subject to Lease

(a) Subject to the provisions of this chapter, the board may lease to any person land, or a parcel of land, owned by the state as state eleemosynary and state memorial park land for agricultural purposes or for prospecting or exploring for and mining, producing, storing, caring for, transporting, preserving, and disposing of the oil and gas belonging to the state.

(b) The board shall not lease any of the land composing the San Jacinto Battleground State Park or Washington-on-the-Brazos State Park for any purpose.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.052. Subdivision of Land

The board may have the state eleemosynary and state memorial park land surveyed and subdivided into lots or blocks that will be conducive or convenient to facilitate the advantageous sale of oil and gas leases. The board may identify the lots and blocks by permanent markings on the ground.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.053. Maps and Plats

The board may make the maps and plats it considers necessary to carry out the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.054. Abstracts of Title

The board shall obtain abstracts of title to the eleemosynary and state park land.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.055. Examination and Perfection of Title

(a) The board shall have the abstracts of title examined by the attorney general, who shall file written title opinions.

(b) The board shall take the necessary steps to perfect a marketable title to the land in the State of Texas.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.056. Filing Abstract of Title and Title Opinion

The abstract of title and the attorney general's title opinion shall be filed in the land office as public documents for the inspection of prospective purchasers of oil and gas leases on the land.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.057. Placing Lease on Market

If the board determines there is a demand for the purchase of oil and gas leases on a lot or tract of land which will reasonably ensure an advantageous sale, the board shall place the oil and gas in the land on the market in the blocks or lots which the board may designate.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.058. Advertisement of Lease

(a) The board shall advertise a brief description of the land from which the oil and gas is proposed to be sold. The advertisement shall give notice that sealed bids for the purchase of the oil and gas by lease will be opened at 10 a. m. on a designated day and that sealed bids received up to that time will be considered.

(b) The board may have the advertisement placed in oil and gas journals in and out of the state and mailed generally to persons the board thinks may be interested.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.059. Minimum Royalty and Rental

(a) A bid shall not be accepted that offers a royalty of less than one-eighth of the gross production of oil and gas in the land covered by the bid. If all members concur, the board may increase the minimum royalty before the promulgation of the advertisement of the land.

(b) A bid must contain an obligation to pay at least \$1 an acre rental for delay in drilling, with the amount to be set by the board in advance of the advertisement.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.060. Bids

(a) A bid shall be directed to the board in care of the land office, retained by the commissioner until the day designated for opening the bids, and opened on that day by the board, or a majority of its members, who shall list, file, and register all bids and money received.

(b) A separate bid shall be made for each survey or subdivision of the survey.

(c) The bid shall state the amount of royalty offered and the amount the bidder is willing to pay in addition to the royalty and annual delay rentals provided for in this subchapter.

(d) The bid shall be accompanied by cash or checks, collectible in Austin, to cover the amount which the bid offers in addition to the royalty and delay rentals and a payment equal to the minimum delay rental fixed on the land per acre for delay in drilling if the bid is accepted.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.061. Rejection and Acceptance of Bids

(a) If a bidder offers a reasonable and proper price, and less than the price set by the board, the land advertised, or a whole survey or subdivision, may be leased for oil and gas purposes under the terms of this chapter and rules the board may prescribe, not inconsistent with the provisions of this chapter.

(b) The board may reject all bids and may withdraw any land advertised for lease before receiving and opening bids.

(c) If the board rejects all bids after a bidding by sealed bids, it may offer for sale and sell the oil and gas in the land, in separate whole surveys only or subdivisions of them, by open public auction at a price less than the price offered by the sealed bids.

(d) If there is no sale at public auction, the subsequent procedure for the sale of oil and gas leases is the manner provided in the previous sections of this subchapter.

(e) If the board determines that a satisfactory bid has been received for the oil and gas, it shall file the bid in the land office.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.062. Necessary Facilities

The board shall authorize the laying of a pipeline or telephone line and the opening of roads over eleemosynary and state park land it considers reasonably necessary for and incident to the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.063. Prohibited Drilling Location

The board may not make a lease for oil or gas which permits the drilling for oil or gas within 1,000 feet of a building in which patients are confined.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 36.064 to 36.100 reserved for expansion]

SUBCHAPTER D. CONDITIONS OF LEASES

§ 36.101. Term of Lease

If oil or gas is discovered in paying quantities on a tract of land covered by a lease, the lease on that tract remains in force, and title to all rights purchased may be held by the owners, as long as oil or gas is produced in paying quantities from the tract. If oil or gas is not produced in paying quantities before the expiration of three years, the lease terminates.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.102. Assignment of Lease

(a) Rights purchased may be assigned in quantities of not less than 40 acres, unless there are fewer than 40 acres remaining in a survey, in which case the lesser area may be assigned.

(b) An assignment shall be filed in the land office within 100 days after the date of the first acknowledgment, accompanied by an amount set by the board that is not less than 10 cents an acre for each acre assigned. If the assignment is not filed as provided in this section and payment made, the assignment is ineffective.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 403, ch. 81, § 21(d), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 36.103. Relinquishment of Lease

(a) Rights to a whole survey or to an assigned portion of a survey may be relinquished to the state at any time by recording an instrument of relinquishment in the county or counties in which the area is located and filing it in the land office, accompanied by a fee set by the board in an amount not less than \$1 for each area assigned.

(b) Such assignment does not relieve the owner of an obligation which already has accrued.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 403, ch. 81, § 21(e), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

[Sections 36.104 to 36.130 reserved for expansion]

SUBCHAPTER E. RENTAL AND
ROYALTY PAYMENTS

§ 36.131. Annual Rental

(a) The lessee shall pay the annual delay rental every year for five years unless there is production in paying quantities on the land.

(b) If the royalties paid equal or exceed the annual rental fixed by the board, the payment of annual rental may be discontinued.

(c) If during the term of a lease issued under the provisions of this chapter the lessee is engaged in actual drilling operations for the discovery of oil and gas on land covered by the lease, no rental is payable on the tract on which the operations are being conducted as long as the operations are proceeding in good faith.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.132. Due Date for Payment

The royalty stipulated in the sale shall be paid on or before the last day of each month for the preceding month during the life of the rights purchased.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.133. Recipient of Payment

The royalty stipulated in the sale shall be paid to the land office for the benefit of the special building fund of the eleemosynary institutions. The payments made under the provisions of this chapter shall be made to the commissioner at Austin, who shall transmit to the State Treasurer for deposit all royalty, delay rentals, and all other payments, including all filing assignments and relinquishment fees.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.134. Statements Accompanying Payment

The payment shall be accompanied by the sworn statement of the owner, manager, or other authorized agent, showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises, and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools, and gas lines or gas storage.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.135. Records Subject to Inspection

The books, accounts, receipts, and discharges of wells, tanks, pools, meters, and pipelines, and all contracts and other records relating to the production, transportation, sale, and marketing of oil and gas are subject to inspection and examination at all times by the commissioner, the attorney general, or any member of the Texas Board of Mental Health and Mental Retardation.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.136. State's Lien

The state has a first lien on all oil and gas produced on the leased area, and on all rigs, tanks, pipelines, telephone lines, machinery, and appliances used in the production and handling of oil and gas produced on the leased area, to secure any amount due from the owner of the lease.

[Acts 1977, 65th Leg., p. 2413, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 36.137 to 36.170 reserved for expansion]

SUBCHAPTER F. DUTIES OF LESSEE

§ 36.171. Duty to Develop and Prevent Drainage

(a) If the area in which oil or gas is sold is contiguous to, or adjacent to land that is not eleemosynary and state park land, the acceptance of the bid and the sale constitute an obligation on the owner of the lease to adequately protect the land leased from drainage from adjacent land.

(b) If oil or gas is discovered on a tract covered by a lease issued under the provisions of this chapter, or on land adjoining the leased tract, the lessee shall conduct the operations necessary to prevent drainage from the tract covered by the lease and properly develop the tract.

(c) If the oil or gas in the area is sold at a lesser royalty, the owner shall protect the state from drainage from the land leased or sold for lesser royalty.

[Acts 1977, 65th Leg., p. 2413, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.172. Forfeiture of Lease

(a) The board may have a lease forfeited by an order entered on the minutes of the board reciting the facts constituting the default and declaring the forfeiture.

(b) A lease is subject to forfeiture if:

(1) the owner of the rights acquired under this chapter fails to protect the land from drainage;

(2) the owner fails or refuses to make the payment of an amount due as rental on the lease or royalty on the production within 30 days after it becomes due;

(3) the owner or his authorized agent makes a false return or false report concerning production, royalty, or drilling;

(4) the owner fails or refuses to drill an offset well or wells in good faith as required by his lease;

(5) the owner or his agent refuses the proper authority access to the records and other data pertaining to the operations under the provisions of this chapter;

(6) the owner or his authorized agent fails or refuses to give correct information to the proper authority, or fails or refuses to furnish the log of a well within 30 days after production is found in paying quantities; or

(7) any of the material terms of the lease are violated.

(c) The board may have suit for forfeiture instituted by the attorney general.

(d) On proper showing by the forfeiting owner within 30 days after the declaration of forfeiture, the board may reinstate the lease on terms which it prescribes.

[Acts 1977, 65th Leg., p. 2413, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.173. Suit for Damages or Specific Performance

Forfeiture of the lease is not the exclusive remedy available to the state. If the owner violates the lease contract, the state may institute suit for damages or specific performance.

[Acts 1977, 65th Leg., p. 2414, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 51.001. Definitions

In this chapter:

- (1) "Commissioner" means the Commissioner of the General Land Office.
- (2) "Land office" means the General Land Office.
- (3) "Board" means the School Land Board.
- (4) "Comptroller" means the Comptroller of Public Accounts of the State of Texas.
- (5) "State Treasurer" means the Treasurer of the State of Texas.
- (6) "Board of regents" means the board of regents of The University of Texas System.
- (7) "Public school land" means all land of the state that is dedicated to the permanent school fund.
- (8) "Asylum land" means all land of the state that is dedicated to the various asylum funds.
- (9) "Surveyed land" means all or part of any tract of land surveyed either on the ground or by protraction and dedicated to the public school fund which is unsold and for which field notes are on file in the land office or that may be delineated on the maps of that office as such.
- (10) "Unsurveyed land" means any land that is not included in surveys on file in the land office or surveys delineated on maps of that office.

[Acts 1977, 65th Leg., p. 2417, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.002 to 51.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO THE SALE AND LEASE OF PUBLIC SCHOOL AND ASYLUM LAND

§ 51.011. Sale and Lease of Public School and Asylum Land

Any land that is set apart to the permanent school fund and the various asylum funds under the constitution and laws of this state together with the

mineral estate in riverbeds, channels, and the tide-lands, including islands, shall be controlled, sold, and leased by the school land board and the commissioner under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.012. Commissioner's Authority

Subject to the authority of the board and to exceptions and restrictions that may be imposed by the constitution and laws of this state, the commissioner is vested with the authority necessary to carry out the provisions of this chapter relating to the sale and lease of public school and asylum land and to the protection of this land from free use and occupancy and from unlawful enclosure.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.013. Classification and Valuation of Land

(a) As the public interest may require, the commissioner shall classify or reclassify and value or revalue all public school and asylum land and shall designate the land as agricultural, grazing, timber, or a combination of these classifications based on the facts in the particular case.

(b) After the classification and appraisalment is entered on the records of the land office, no further action needs to be taken by the commissioner and no notice is required to be given to the county clerk for the classification and appraisalment to be effective.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.014. Rules

(a) The commissioner may adopt rules necessary to carry out the provisions of this chapter and may alter or amend the rules to protect the public interest.

(b) Before rules are adopted under Subsection (a) of this section, the commissioner shall submit the rules to the governor for his approval.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.015. Forms

The commissioner shall adopt forms that are necessary or proper to transact business that he is required to transact and may request that the attorney general prepare the forms.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.016. Duties of the Attorney General

The attorney general shall furnish the commissioner with advice and legal assistance that may be required to execute the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.017. Furnishing Data to Board of Education

On request, the commissioner shall furnish to the State Board of Education all available data.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.018. Records and Accounts

The commissioner shall keep in his custody as records of his office each application, affidavit, obligation, and paper relating to the sale and lease of public school and asylum land and shall keep accurate accounts with each purchaser or lessee.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.019. Special Fee

Each bidder on a mineral lease or land sale by the board shall remit by separate check a special sale fee in the amount and in the manner provided in Section 34.061 of this code.

[Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.020. Refunds

(a) On presentation of proper proof, money paid in good faith to a fund in the State Treasury for public land to which the fund is not entitled shall be refunded by the comptroller in the following instances:

- (1) if an error is made in good faith and the refund, stating to whom payment is to be made, is supported by the official signature of the commissioner or the attorney general;
- (2) if the payment is made according to law but title cannot issue or possession cannot pass because of a conflict in boundaries, an erroneous sale, an erroneous lease, or other cause;
- (3) if there is a sale of leased land;
- (4) if lease money is paid on a previous forfeited sale and the sale has been reinstated and the interest paid;
- (5) if erroneous timber sales or leases have been made;
- (6) if overpayments have been made in final payments to the State Treasurer because of decreased acreage or other cause;
- (7) if reduction has been made in acreage of timber sold or leased; or
- (8) if payments are made in good faith by claimants of land where the applicants have no

right to purchase the land as revealed by investigation of title.

(b) After specific appropriations are made according to law, refunds shall be paid from the funds to which the payments have been credited.

(c) Any claim for refund except a refund covered by Subdivision (1) of Subsection (a) of this section shall be certified by the commissioner, verified by the affidavit of the claimant, and approved by the attorney general as to the correctness and as to whom the refund is due.

(d) In the event of a failure of title or right of possession, money paid by any purchaser or lessee who subsequently sells the land or assigns the lease shall be refunded to the person on whom the loss falls.

[Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.021 to 51.050 reserved for expansion]

SUBCHAPTER C. SALE OF PUBLIC SCHOOL AND ASYLUM LAND

§ 51.051. Sale of Land

Subject to the provisions of Section 32.109 of this code, all sales of land described in Section 51.011 of this code shall be made by or under the direction of the school land board to the applicant who submits the highest bid for the land at a price that is not less than the price set by the board for purchase of the land.

[Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.052. Conditions for Sale of Land

(a) Land sold under the provisions of this subchapter shall be sold without condition of settlement and residence.

(b) A purchaser of land under this subchapter may make a down payment of an amount determined by the board and the board may set the terms and conditions of the sale, including the interest rate. On full payment and satisfaction of other conditions, the purchaser is entitled to a patent for the land. This subsection does not prevent the board from requiring a tract of land to be purchased for cash.

(c) No land may be sold to corporations, and no corporation may purchase land under this subchapter.

(d) Before the land under this subchapter is sold, the appraisers for the land office must appraise the land at its market value and file a copy of the appraisal with the commissioner. No land covered by this subchapter may be sold for less than the market value that appears in the appraisal made under this subsection.

(e) The owner of land that surrounds land in a tract of 320 acres or less shall have a preference right to purchase the tract before the land is made available for sale to any other person, provided the person having the preference right pays not less than the market value for the land as determined by the board.

(f) If the surrounding land is owned by more than one person, the owners of land with a common boundary with a tract of 320 acres or less that is for sale shall have a preference right to purchase the tract before it is made available to any other person, provided the person with the preference right pays not less than the market value of the land as determined by the board and the board finds use of the preference to be in the best interest of the state. The board shall adopt rules to implement this preference right.

[Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5242, ch. 965, § 1, eff. June 19, 1983.]

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§§ 51.0521, 51.053. Repealed by Acts 1983, 68th Leg., p. 5248, ch. 965, § 12, eff. June 19, 1983

Section 13 of the 1983 repealing act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 51.054. Reservation of Minerals

(a) Land dedicated to the permanent school fund shall be sold subject to a reservation set by the School Land Board of not less than one-eighth of all sulphur and other mineral substances from which sulphur may be derived or produced and not less than one-sixteenth of all other minerals to the state; provided, that if leasing rights are retained hereunder, the reserved minerals shall be subject to lease as provided by Subchapter B, Chapter 52, Natural Resources Code,¹ and Subchapters B and E, Chapter 53, Natural Resources Code.² The mineral reservation to the state shall be determined by the board before the land is offered for sale.

(b) Land that is set apart for the various asylum funds shall be sold with the oil, gas, coal, and all other minerals reserved to the fund to which the land belongs.

(c) The provisions of this section do not apply to oil and gas sold from public school and asylum land covered by Subchapter F, Chapter 52, of this code.³

(d) The provisions of this section do not apply to vacancies covered by Section 51.201 of this code.

[Acts 1977, 65th Leg., p. 2420, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5243, ch. 965, § 2, eff. June 19, 1983.]

¹ Section 52.011 et seq.

² Sections 53.011 et seq., 53.151 et seq.

³ Section 52.171 et seq.

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 51.055. Lease of Unsold Land

(a) Unsold public school and asylum land may be leased subject to sale for a term of not more than 10 years and for an amount of not less than five cents an acre a year.

(b) Land leased under this section is subject to sale on any sale date for which it is advertised to be sold.

[Acts 1977, 65th Leg., p. 2420, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.0551. Lists of Public Land Offered for Sale: Criminal Penalties

(a) A person, including a corporation or an association, commits an offense if he reproduces, prints, or prepares or sells or furnishes a printed, multi-graphed, or mimeographed list prepared by or under the direction of the commissioner offering for sale or lease any state or public school land.

(b) This section does not prohibit the commissioner or land board from advertising in a newspaper or otherwise as is provided by law nor a newspaper or periodical from publishing the list in a regular issue as a news item.

(c) An offense under this section is a misdemeanor or punishable by a fine of not more than \$1,000. [Acts 1983, 68th Leg., p. 1021, ch. 235, art. 5, § 1(a), eff. Sept. 1, 1983.]

§ 51.056. Application to Purchase Land

(a) A person who wants to purchase public school or asylum land shall submit to the commissioner a separate written application for each tract.

(b) Each application shall:

- (1) designate the land to be purchased;
- (2) state the bid offered;

(3) include an affidavit that the purchaser is purchasing the land for himself and that no other person or corporation is either directly or indirectly interested in the purchase of the land.

(c) The sale of the land is effective from the date of the receipt and filing of the application, affidavit, obligation, and the payment of the initial portion of the price offered.

(d) The application to purchase and the notice of award shall state that the land is sold without condition of settlement and with a reservation of minerals, as determined by the board.

[Acts 1977, 65th Leg., p. 2420, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5243, ch. 965, § 3, eff. June 19, 1983.]

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 51.057. Delivery of Applications

(a) An application for the purchase of public school or asylum land shall be delivered to the land office in a sealed envelope addressed to the commissioner with the words "application to buy land" and the date the land is to be sold endorsed on the envelope. Applications that do not have the required endorsements are nevertheless valid.

(b) The envelopes shall remain unopened and the applications unfiled, and the commissioner or his chief clerk shall keep the envelopes and applications in a safe and secure manner until the date of sale.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.058. Method for Making First Payment

(a) An applicant shall submit with his application the required first payment in the form of money or remittance collectible on demand in Austin and convertible at par into money on order of the State Treasurer without liability.

(b) If a remittance is made payable to the commissioner, the payment is not invalid for that reason, but the commissioner shall endorse it to the State Treasurer without incurring liability and the remittance shall be treated as if it were payable to the State Treasurer.

(c) An application is void if the payment is not made as provided in this section.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.059. Opening Applications

(a) On the date of sale, the application envelopes shall be opened and the applications shall be filed and the information entered on the docket of the board as provided in Section 32.108 of this code.

(b) Any person who desires to be present at the time the envelopes are opened may do so.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.060. Recordation of First Payments

(a) After each application envelope is opened and the first payment for the land is in the land office, the commissioner shall have the payment listed on a

daily list which shall be made in triplicate, showing the name and address of each applicant and the purpose for which each payment is made and shall transmit to the State Treasurer all of the payments together with two of the lists.

(b) On receiving the payments and the lists, the treasurer shall compare the payments with the lists, and if the treasurer finds that the payments and the lists are correct, he shall receipt one of the lists and return it to the commissioner and shall retain the other list.

(c) On receiving the list from the treasurer, the commissioner shall deliver the third list to the comptroller.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.061. Collection of Remittances

(a) The State Treasurer shall immediately collect all collectible remittances and shall report to the commissioner and comptroller all remittances not collectible in Austin.

(b) Any remittances that cannot be collected shall be returned to the commissioner.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.062. Disposition of First Payments

(a) The State Treasurer shall retain all first payments he has collected until the commissioner notifies him of the final disposition of the applications to purchase land.

(b) After the treasurer is notified, he shall return to each applicant whose application is rejected the amount of his first payment.

(c) A duplicate of the notice to the treasurer of accepted and rejected applications and the amount of the first payment shall be transmitted to the comptroller.

(d) On the last working day of each month, the treasurer shall deposit in the State Treasury to the credit of the proper fund the amount collected by him on accepted applications during that month.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.063. Duplicate High Bids

If two or more applicants submit the same bid for a tract of land and the bids are the highest bids offered on the sale date, the school land board shall reject all of the bids and the land shall be offered for sale on the next sale date. Any subsequent bid for the land may not be considered if it is less than the high bids rejected under this section.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.064. Individual Bids

(a) Any public school or asylum land offered for sale for which no application is made under Section 51.056 of this code may be sold to any person who files a proper application in the land office in the manner provided by law.

(b) A person who files an application under this section is not required to have any memorandum on the envelope containing the application.

(c) If two or more applications are filed under this section on the same day for the same land, the person offering the highest price shall have his offer accepted, but if two or more persons offer the same price for the land, the commissioner and the school land board shall proceed in the manner provided by this chapter for the first filing.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.065. Notice and Record of Sale

(a) The commissioner shall notify the county clerk of the proper county of the sale of each tract of land, the name and address of the purchaser, and the price of the land.

(b) After being informed of any sale of public school or asylum land, the county clerk shall enter in his books opposite the description of the land sold, the name of the purchaser and the date of the sale.

(c) The notice of sale and the book containing the entry are public records.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.066. Notice of Award

(a) The commissioner shall prepare and issue a notice of award for each tract of land sold.

(b) Each notice of award shall be appropriately numbered and shall be worded in a manner that will constitute a receipt for the first payment after it is signed by the commissioner.

(c) One copy of the notice of award shall be retained in the land office and the other copy shall be sent to the purchaser.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.067. Information Required With Payments

A person who is making a payment of principal, interest, or lease rental on land shall give the name of the original purchaser or lessee and shall sufficiently designate the land.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.068. Fund Accounts

(a) Payments of principal, interest, and lease rental shall be accounted for in a similar form but separate from first payments on land.

(b) The state treasurer shall deposit 80 percent of all these payments received each month to the probable fund to which they belong as indicated by the commissioner and shall hold the remaining 20 percent on deposit receipts furnished by the comptroller until definite notice is received from the commissioner as to the proper fund. After definite notice is received, the State Treasurer shall credit the full amount to the proper fund.

(c) The commissioner shall give definite notice to the State Treasurer and comptroller immediately after he issues receipts to the persons making the payments.

(d) The commissioner, State Treasurer, and comptroller shall keep an account with each fund according to advices given by them and shall retain the advices as permanent records.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.069. Disposition of Payments on Public School Land

(a) Payments on public school land received by the commissioner shall be transmitted to the State Treasurer to be credited to the proper fund.

(b) The State Treasurer shall credit payments received on the purchase price of public school land to the permanent school fund and payments received as interest on the purchase of public school land to the available school fund.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.070. Unpaid Interest on Public School Land

(a) Unpaid and delinquent interest on sales of public school land shall bear interest at a rate set by the board, compounded annually as it accrues on the date of payment set by the board.

(b) No patent may be issued for any public school land until all compounded interest is paid to the time of issuing the patent.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5244, ch. 965, § 4, eff. June 19, 1983.]

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 51.071. Forfeiture of Land

(a) If principal or interest on a sale of land is not paid when due, the land is subject to forfeiture by the commissioner by entry on the wrapper containing the papers "Land Forfeited" or similar words,

the date of the forfeiture, and the official signature of the commissioner.

(b) After the entry is made on the wrapper, the land and all payments that have been made for it are forfeited to the state, and the land may be offered for sale on a subsequent sale date.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5244, ch. 965, § 5, eff. June 19, 1983.]

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 51.072. Effect of Forfeiture

In cases of forfeiture, the original obligations and penalties are as binding as if no forfeiture occurred.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.073. Classification and Sale of Leased and Forfeited Land

(a) Before it is sold, the commissioner shall classify and value land on which leases have been cancelled or have expired and land forfeited to the state.

(b) Except as provided in Section 51.064 of this code, no land may be sold until it is advertised.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.074. Reinstatement of Land Purchases

(a) If no rights of third persons have intervened, the purchasers or their vendees, heirs, or legal representatives, who claim land that has been forfeited for nonpayment of interest, may have the claim reinstated on written request by paying into the State Treasury the amount of interest due on the claim up to the date of reinstatement.

(b) The right to reinstate a claim under this section is limited to the last purchaser from the state, or his vendees, heirs, or legal representatives, and must be exercised within five years from the date of the forfeiture.

(c) If there is a valid outstanding grazing lease that prevents reinstatement within the time provided in Subsection (b) of this section, the claim may be reinstated within 60 days after the grazing lease expires if the application for reinstatement together with the payment for all past due interest has been filed in the land office within five years from the date of forfeiture.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.075. Forfeiture of a Deceased Purchaser's Land

(a) If a purchaser of land dies, the heirs or legal representatives of the deceased have one year following November 1 after the purchaser's death in which to make payment before the commissioner declares the land to be forfeited.

(b) If the forfeiture is declared by the commissioner within the time period stated in Subsection (a) of this section, it will be set aside on proper proof of death if no rights of third parties have intervened.

[Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.076. Legal Proceedings

None of the provisions of Sections 51.071 through 51.072 and 51.074 through 51.075 of this code shall prevent the state from instituting legal proceedings necessary:

- (1) to enforce a forfeiture;
- (2) to recover the full amount of interest and penalties that may be owed to the state at the time the forfeiture occurred; or
- (3) to protect another right to the land.

[Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.077. Lien

To secure the payment of principal and interest due on a sale of public school land, university land, and asylum land, the state has an express lien for the use and benefit of the fund to which the land belongs. The lien is in addition to any right and remedy that the state has for enforcement of the payment of principal or interest due and unpaid.

[Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.078. Transfer of Indebtedness

(a) If a person or the Federal Farm Loan Bank, with the consent of the owner of land covered by Section 51.077 of this code, pays to the state the principal and interest due on any obligation given for the land, the commissioner, on written request of the owner, may execute, acknowledge, and deliver to the person or the Federal Farm Loan Bank a written transfer of the indebtedness held by the state. The written request of the owner shall be acknowledged in the manner required for the conveyance of real estate and shall be accompanied by an affidavit of ownership.

(b) The person or the Federal Farm Loan Bank is subrogated to all the rights, liens, and remedies held by the state to secure and enforce the payment of the principal and interest that was paid to the state.

(c) If the land claimed by a person claiming to be the owner is held under evidence of title that the law or rules of the land office do not authorize to be filed in the land office, the commissioner may admit the owner to be the person that the person or the Federal Farm Loan Bank paying the indebtedness admits to be the owner, and on making this admission the instrument of transfer shall be executed.

(d) None of the provisions of this section shall change any part of the law or rules that apply to the land office with relation to titles to land and issuance of patents.

[Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.079. Transfers Generally

(a) An owner of public school land or asylum land purchased from the state may sell the land or a definite portion of the land in any size tract.

(b) If land to be sold is separated from another portion of land but is not sufficiently designated by metes and bounds in the papers offered to be filed so that it may be identified with certainty, the commissioner shall require that proper field notes accompany the papers before he files them and separates the land.

[Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.080. Personal Transfers

(a) A vendee who obtains through personal transfer a whole survey or a whole portion of a survey purchased from the state as a whole or who obtains through personal transfer a portion of a survey purchased from the state as a whole or in a quantity less than the whole survey is entitled to become a substitute purchaser directly from the state in the manner provided in this section.

(b) With the approval of the commissioner, the vendee may file in the land office a complete chain of title through personal transfers that have been duly executed and recorded in the counties in which the land or a part of the land is located and shall pay the fees provided by law.

(c) After the papers are filed in the land office, the substituted purchaser shall have his portion of land separated from the other portion of land, if any, on the records of the land office and shall assume and be liable to the state for all unpaid principal and interest due the state for the land conveyed by the deeds that are filed, together with all obligations and penalties attaching to the original purchase.

(d) The obligation of the original purchaser and the obligation of all vendors of the substituted purchaser are enforceable against the substituted purchaser as if he were the original purchaser from

the state, and the obligation of the vendor or vendors of the substituted purchaser are canceled.

[Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.081. Transfers Other Than Personal Transfer

A person who claims title through a source other than by personal transfer to a definite portion of a survey that is less than the whole survey purchased from the state, with the approval of the commissioner, may have the portion of land that he claims separated from the other portion of the survey on the records of the land office by filing in the land office evidence of claims that may be required by the commissioner and by paying the fees provided by law for papers filed as evidence of the claim or a right to a separation of the area.

[Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.082. Liability of Vendee

After a separation of land is made on the records of the land office, the portion that is separated shall be charged and credited with its pro rata part of the principal and interest due and paid to November 1 preceding the date of the filing of the transfers or other papers.

[Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.083. Patent on Part of a Tract

(a) If an owner or claimant of land whose ownership or claim is shown on the records of the land office desires a patent on a portion of the whole tract, the owner or claimant, with the approval of the commissioner, may file field notes for the portion of the tract on which the patent is desired, together with the filing fee required by law, and may obtain a patent for the portion of the tract after the full price is paid, together with all fees required by law.

(b) If the ownership of the tract is evidenced by personal transfer, the patent shall be issued to the owner and his assigns, but if the claimant claims title through other evidence than by personal transfer, the patent shall be issued in the name of the person and his assigns who hold title by original purchase or in the name of the person and his assigns who appear on the records to hold title through the last personal transfer.

(c) If a patent is issued in the name of any person other than the legal owner, the patent and the rights granted in the patent inure to the benefit of the legal owner.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.084. Sale Without Condition of Residence

No sale made without condition of settlement may be questioned by the state or any person after one year from the date of the sale.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.085. Time for Purchase of Land

Each purchaser of land has the option of paying the purchase price in full at any time, together with all fees, and obtaining a patent for the land.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.086. Sale of Escheated Permanent School Land

(a) All sales of escheated land that is a part of the permanent school fund must be made to the highest bidder at a price that may not be less than the greater of \$2.50 an acre or the minimum price set by the court under Section 71.107, Property Code.

(b) On a contract for sale of escheated permanent school land, the initial payment must be in cash and may not be less than one-tenth of the purchase price. The purchaser shall pay the balance of the purchase price in nine equal annual installments and shall pay interest on the deferred amount at the rate of six percent a year.

(c) When escheated permanent school land is sold, this state shall reserve all minerals in the land for the permanent school fund.

[Acts 1983, p. 3729, ch. 576, § 4, eff. Jan. 1, 1984.]

Amendment by Acts 1983, 68th Leg., p. 5246, ch. 965, § 8

Section 8 of Acts 1983, 68th Leg., p. 5246, ch. 965, eff. June 19, 1983, purported to amend Civil Statutes, art. 3281 [now, this section, § 51.121, and Property Code, § 71.202] without reference to the repeal of said article by Acts 1983, 68th Leg., p. 3729, ch. 576, § 6. Section 1 of ch. 576 enacted the Property Code. As so amended, art. 3281 reads:

"All lands heretofore or hereafter escheated to the State of Texas by provisions of this Title are hereby dedicated, appropriated and set apart to the Permanent Free School Fund of the State of Texas. The Clerk of the District Court in which any judgment shall be rendered for the State escheating real estate to the State, shall, within ninety (90) days of the date of said judgment, forward the Commissioner of the General Land Office at Austin, Texas, a certified copy of said judgment of escheat. The Clerk of said Court shall likewise notify the Commissioner of the General Land Office of any

appeal that may be taken in said case. Upon receipt of a certified copy of judgment escheating real estate to the State from which no appeal is taken, or upon receipt of a certified copy of notice of affirmance of any judgment escheating lands to the State, from which an appeal was taken, the Commissioner of the General Land Office shall list said lands as escheated permanent free school lands. The Commissioner of the General Land Office may lease said lands for grazing purposes under existing laws relating to the leasing for grazing purposes of unsold school lands. The Commissioner of the General Land Office may lease said lands for agricultural, residential, business or other purposes for a term of not to exceed two (2) years, said rental to be payable in money, the amount of said rental and all other terms of the lease to be fixed by the Commissioner of the General Land Office. Any unsold escheated permanent free school lands shall be subject to lease for oil and gas development or subject to other mineral development under Statutes governing the leasing for mineral purposes of all other unsold permanent free school lands. Any escheated permanent free school lands may be sold by the Commissioner of the General Land Office for not less than one-tenth of the purchase price in cash and the balance of said purchase price payable in nine equal annual installments, said deferred installments to bear interest at the rate set by the School Land Board. Any lands so sold shall be sold to the highest bidder as are other public free school lands but no escheated lands shall be sold at a price of less than Two Dollars and Fifty Cents (\$2.50) per acre. All sales of escheated permanent free school lands shall be with a reservation to the State of all the minerals in the land in favor of the Permanent Free School Fund. The mineral interests retained by the State under this Article are subject to lease as provided by Subchapter B, Chapter 52, Natural Resources Code, and Subchapters B and E, Chapter 53, Natural Resources Code. All sums received from the leasing, mineral developments, or sale of escheated lands shall be deposited in the Permanent School Fund of Texas. The Tax Assessor/Collector of each county shall take all steps necessary to identify land that may be subject to escheat and shall notify the Commissioner of the General Land Office and the Attorney General so that appropriate action can be taken. The

Commissioner of the General Land Office is authorized to adopt such regulations as he deems necessary to carry out this Article. Said regulations or forms adopted shall be approved by the Attorney General."

Section 3.11(c) of the Code Construction Act (Vernon's Ann.Civ.St. art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

[Sections 51.087 to 51.120 reserved for expansion]

SUBCHAPTER D. LEASE OF LAND

§ 51.121. Lease of Unsold Land

(a) Except as otherwise provided, unsold public school and asylum land may be leased for a term of not more than 10 years and for an amount of not less than five cents an acre, payable annually in advance, but the land that is leased but remains unsold is subject to sale or trade pursuant to the laws governing the sale or trade of unsold land.

(b) Unsold public school and asylum land may be leased for commercial purposes in tracts of not more than 50 acres for a term of not more than 50 years. Commercial improvements on land under this subsection shall not become the property of the state and shall be taxed in the same manner as other private property.

(c) Commercial improvements on land leased under Subsection (b) of Section 51.121 of the Natural Resources Code shall be removed prior to the expiration of the lease unless a renewal or an extension of the lease has been finalized prior to the expiration of the term of the lease. If commercial improvements are not removed prior to the expiration of the lease and if there has been no renewal or extension prior to the expiration of the lease, then the commercial improvements on the land shall become property of the state.

(d) If escheated land that is a part of the permanent school fund is leased under this chapter for a purpose other than for grazing, the period of the lease may not exceed two years. The lessee shall pay rent under the lease in money.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 472, ch. 215, § 1, eff. May 17, 1979; Acts 1983, 68th Leg., p. 3729, ch. 576, § 5, eff. Jan. 1, 1984.]

§ 51.122. Advertisement of Leases

Leases under the provisions of this subchapter may be advertised in the manner provided in Section 32.107 of this code.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.123. Lease Application

A person who desires to lease land shall submit a written application to the commissioner specifying and describing the particular land he desires to lease.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.124. Award of Lease

(a) A lease shall be awarded to the highest responsible bidder.

(b) The lease shall be awarded under the rules and in the quantities the board considers to be in the best interest of the state and not inconsistent with the equities of the occupant.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.125. Rejection of Bid or Offer to Lease

Any bid or offer to lease may be rejected by the board for fraud, collusion, or other good and sufficient cause before the lease is signed.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.126. Notification of Acceptance and Execution of Lease

After the applications are received, the commissioner shall give written notification to the successful applicant that his bid or offer to lease is accepted and execute a lease to the applicant in the name and by the authority of the State of Texas.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.127. Recording Lease

(a) After the lessee has paid the rent for the land for a year in advance, the commissioner shall deliver the lease to the clerk of the county in which the land is located.

(b) When a lease is filed for record, the clerk shall prepare a memorandum or abstract of the lease and shall record the memorandum or abstract in a well-bound book or on microfilm kept in his office.

- (c) The memorandum or abstract shall contain:
- (1) the number of the survey leased;
 - (2) the name of the original grantee;
 - (3) the amount of land leased;
 - (4) the name of the lessee;
 - (5) the date of the lease; and
 - (6) the term of years the lease is to run.

(d) On payment of the fee required by law, the clerk shall deliver the lease to the lessee.

(e) Except for the record made under this section, no other record of a lease is required.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.128. Cancellation of Lease

(a) If a lessee fails to pay the annual rent within 60 days after it is due, the commissioner shall cancel the lease with a written document signed by him with his seal attached.

(b) The commissioner shall file the document with the other papers relating to the lease, and the lease shall terminate immediately.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.129. Lien

(a) During the continuance of the lease and after forfeiture, the state has a lien on all property owned by the lessee which is located on the leased premises to secure payment of rent due.

(b) The lien is superior to all other liens.

(c) A reservation of the lien in the lease is not essential to preserve its validity.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.130. Removal of Improvements

An improvement made by a lessee on land leased by him may be removed by the lessee on the expiration of the lease or, at the discretion of the commissioner, may become the property of the state if, in the original lease, the commissioner and the lessee agree on adequate credit to be applied to the rental to be paid the state by the lessee, thereby allowing the lessee an agreed consideration.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.131 to 51.170 reserved for expansion]

SUBCHAPTER E. SALE AND LEASE OF VACANCIES

§ 51.171. Sale and Lease of Vacant Land

Vacant and unsurveyed public school land except riverbeds, channels, islands, lakes, bays, and other areas in tidewater limits shall be sold and leased under the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.172. Definitions

In this subchapter:

(1) "Good-faith claimant" and "claimant" mean any person:

(A) who occupies or uses or has previously occupied or used or whose predecessors in in-

terest have occupied or used a vacancy for purposes other than exploring for or removing oil, gas, sulphur, or other minerals from the vacancy; and

(B) who has himself or whose predecessors in interest had the vacancy enclosed or within definite recognized boundaries and in possession for a period of 10 years with a good-faith belief that the vacancy was included inside the boundaries of the survey or surveys that were previously titled, awarded, or sold under circumstances that would have vested title in the vacancy if it were actually located within the boundaries of the survey or surveys whose boundaries are recognized boundaries in the community.

(2) "Vacancy" means an area of unsurveyed public school land that:

(A) is not in conflict on the ground with land previously titled, awarded, or sold;

(B) has not been listed on the records of the land office as public school land; and

(C) was, on the date of filing, neither subject to an earlier subsisting application to purchase or lease by a discoverer or claimant nor involved in pending litigation brought by the state to recover the land.

(3) "Applicant" means any person, other than a good-faith claimant, who discovers and files an application to purchase or lease a vacancy.

[Acts 1977, 65th Leg., p. 2428, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.173. Persons Eligible to Purchase and Lease Land

(a) A vacancy may be sold to a good-faith claimant whether or not the vacancy is located within five miles of a well producing oil, gas, or other minerals in commercial quantities, but a person who is not a good-faith claimant may not purchase a vacancy that is located within five miles of a well producing oil or gas in commercial quantities.

(b) If there is no good-faith claimant or if the claimant fails to exercise his preferential right, a vacancy located within five miles of a well producing oil or gas in commercial quantities shall be available only for lease.

[Acts 1977, 65th Leg., p. 2428, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.174. Purchase of Vacancy by Adjoining Landowner

If the owner of the land adjoining an alleged vacancy files an application to purchase the vacancy and no application to purchase or lease the vacancy has been previously filed, the owner of the adjoining land, who otherwise qualifies as a good-faith claimant, shall be considered a good-faith claimant regardless of the length of time he has owned the

adjoining land or has enclosed the vacancy or has had it within definite recognized boundaries and in possession with the belief that the vacancy was included within his survey.

[Acts 1977, 65th Leg., p. 2428, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.175. Application to Purchase or Lease a Vacancy

(a) An applicant who claims that a vacancy exists and who desires to purchase or lease the vacancy shall file with the county surveyor in the county in which any part of the vacancy is located a sworn written application in duplicate to purchase or lease the vacancy.

(b) The application shall:

(1) describe the land that is claimed to be vacant;

(2) state the desire of the applicant to purchase or lease the land under the provisions of this chapter;

(3) give the names and addresses of any owners or claimants of land or any interest in land or of leases on, adjoining, overlapping, or including the land claimed to be vacant as far as can be determined from the records of the land office and the county clerk's office in the county in which the land is located and the tax records of the county in which the land is located;

(4) give the names and addresses of any persons who, from facts known to the applicant, assert any right to the alleged vacant land; and

(5) state that the applicant knows of no other claimants than those listed.

[Acts 1977, 65th Leg., p. 2428, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.176. Filing Fee

At the time the application is filed, the applicant shall pay to the county surveyor a filing fee of \$5.

[Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.177. Filing Application With County

(a) The county surveyor shall mark the exact date and hour of filing on the original and duplicate copy of each application and shall return one copy of the application to the applicant and shall record the other copy in a book kept for that purpose.

(b) If the county does not have a county surveyor, the preliminary filing of the application shall be with the county clerk. The county clerk shall record the application in a book kept for that purpose and not in the deed records.

[Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.178. Filing Application With Commissioner

(a) Within 10 days after the application is filed with the county surveyor, the copy of the application that is returned to the applicant shall be filed with the commissioner.

(b) The commissioner shall mark the date of filing on the application.

(c) The applicant shall pay to the commissioner a filing fee set by the commissioner in an amount not less than \$100.

(d) Failure to file the application with the commissioner in the time provided by this section and to pay the filing fee constitutes a waiver of all rights under the application.

(e) As between applicants, priority dates from the time of filing the application with the county surveyor.

[Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 403, ch. 81, § 21(f), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 51.179. Deposit

(a) The commissioner shall notify the applicant by letter of the estimated cost of proceeding under the application, and within 30 days after the date of the commissioner's letter, the applicant shall make a deposit with the commissioner to pay the cost of the work that may be necessary to comply with the request contained in the application.

(b) On failure to make the deposit required under this section, all rights under the application are lost.

[Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.180. Insufficient Deposit

(a) If the deposit is insufficient, the applicant shall be requested by letter to make a further deposit of an amount determined by the commissioner.

(b) If the further deposit is not made within 30 days after the date of the letter, work shall be discontinued and the application canceled with the cancellation endorsed on the application.

(c) On cancellation, the right to purchase or lease the vacancy under the application is lost.

[Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.181. Appeal of Amount of Deposit

(a) The applicant is entitled to appeal the estimated cost determined by the commissioner to a district court in Travis County by giving written notice to

the commissioner within 15 days after receiving the estimated cost from the commissioner as provided in Sections 51.179 through 51.180 of this code.

(b) The applicant has 15 days after the district court enters its decision in which to pay the amount ordered by the court's decision.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.182. Deposits as Trust Fund

Deposits provided under Sections 51.179 through 51.180 of this code shall be a special trust fund to be used only for the purpose authorized by this subchapter.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.183. Statement and Refund of Remaining Deposit

As soon as the total expense properly charged against the deposit is determined, the commissioner shall render a complete statement to the applicant together with any balance remaining from the deposit.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.184. Notice of Intention to Survey

(a) After the application is filed with the commissioner and the deposit is made, the commissioner shall mail a notice of intention to survey to all persons named as interested persons in the application at the addresses provided in the application and to the attorney general.

(b) The notices shall be deposited in the post office in Austin at least 10 days before the date set for the beginning of the survey.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.185. Appointment of Surveyor

(a) The commissioner shall appoint a surveyor to make the survey in accordance with the notice of intention to survey.

(b) The surveyor shall be a surveyor licensed by the state or the county surveyor of the county in which the vacancy or part of the vacancy is located.

(c) The fees and expenses paid for the survey shall be the same as provided by law, and if the fees and expenses are not provided by law, the commissioner and surveyor shall make an agreement as to fees and expenses that shall not be more than an amount that is reasonable for the work performed.

(d) The fees and expenses shall be paid by the applicant.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.186. Survey Report

(a) Except as provided in Subsection (b) of this section, a written report of the survey, together with field notes describing the land and the lines and corners surveyed and a plat showing the results of the survey, shall be filed in the land office within 120 days from the filing of the application.

(b) The commissioner may extend the time for filing the survey if good cause is shown. The cause for extension of time shall be stated in writing and filed as part of the record of the proceedings. An extension of time may not be more than 60 days.

(c) The survey report shall give the names and post-office addresses of all persons who have possession of the land described in the application and of all persons found by the surveyor who have or claim any interest in the land.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.187. Personal Survey

Any interested party at his own expense may have any surveying done that he considers desirable.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.188. Hearing and Notice

(a) Within 60 days after the surveyor makes his report, a hearing may be held before the commissioner to determine whether or not there is a vacancy.

(b) The date for the hearing shall be provided in the notice that the commissioner shall give to all persons thought to be interested parties and to all persons shown by the record of the proceeding to be interested parties, including the attorney general.

(c) The notice of the hearing shall be deposited at the post office in Austin at least 10 days before the date set for the hearing.

(d) At the hearing, the state and each interested party, whether or not he received notice, is entitled to be heard.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.189. Determination of Vacancy by Commissioner

(a) If it appears to the commissioner that the alleged vacancy is not in conflict with land previously titled, awarded, or sold by the state, he shall give prompt notice of this finding to the applicant and to all persons who were previously identified as interested parties.

(b) After the notice is given under Subsection (a) of this section, and subject to the preferential right of a good-faith claimant, the applicant is entitled for

120 days to purchase or lease the portion of the land that is determined to be vacant at a price set by the board as provided in this code and with the same royalty reservation as provided in Section 51.201 of this code.

(c) No award may be made by the commissioner unless a hearing is held, and no presumption may obtain in a suit involving the existence of a vacancy as a result of the action of the commissioner in this respect.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.190. Purchase or Lease by Applicant

(a) If there is no good-faith claimant or if no good-faith claimant exercises his preferential right within the time allowed, the applicant is entitled to purchase or lease, according to his application, the vacancy for which he made application and which is found to exist.

(b) Consideration shall be determined by the board as provided in this subchapter, but without consideration of potential mineral value.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.191. Suit to Recover Land

A good-faith claimant of a vacant or unsurveyed tract of land has 90 days after the sale or lease of the land by the commissioner to institute suit to set aside the sale or lease of the land. If the suit is not instituted within the 90-day period by the good-faith claimant, he loses all preferential rights to purchase or lease the land.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.192. Denial of Vacancy by Commissioner

(a) If the commissioner decides that the area alleged to be vacant is not vacant, he shall endorse this decision on the application and file it with his finding.

(b) The commissioner shall promptly notify the applicant of his decision by registered mail and shall file all reports and papers received in connection with the application.

(c) After the commissioner takes all action provided under Subsections (a) and (b) of this section, he shall take no further action with respect to the application unless the existence of the alleged vacancy is determined by a court of competent jurisdiction.

(d) Within 90 days after the commissioner's decision is mailed, unless the applicant files suit in a district court in a county in which part of the alleged vacancy is located to litigate the question of the existence of a vacancy, the applicant's applica-

tion and all preference rights acquired to purchase or lease the alleged vacancy become null and void.

[Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.193. Preferential Right of Good-Faith Claimant

(a) A good-faith claimant who ascertains that a vacancy exists or that a claimed vacancy may exist or who has been notified by the commissioner that a vacancy has been found to exist on land claimed by him shall have a preferential right to purchase or lease the vacancy at any time until 90 days after a decision of the commissioner declaring the existence of a vacancy.

(b) The good-faith claimant may purchase or lease the vacancy by submitting a written application to the commissioner for the purchase or lease of the vacancy and by furnishing to the commissioner satisfactory proof that he is a good-faith claimant.

(c) The good-faith claimant is entitled to purchase or lease the portion of the land that is vacant at the price set by the board subject to the royalty reservations provided in this subchapter which are effective on the date the application is filed.

[Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.194. Term of Preferential Right

A good-faith claimant has a preferential right to purchase the land alleged or adjudicated to be vacant until 90 days after the final judicial determination of the existence of the vacancy.

[Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.195. Effect of Good-Faith Claimant's Application

The application of a good-faith claimant may not be used or considered as an admission on his part that a vacancy exists.

[Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.196. Procedure for Purchase or Lease by Good-Faith Claimant

(a) On the date a good-faith claimant's application is filed, if there is no valid and subsisting application previously filed by an applicant covering the alleged vacancy, the application of the good-faith claimant shall be filed and shall be accompanied by:

- (1) a filing fee set by the commissioner in an amount not less than \$1;
- (2) a written report of a surveyor licensed by the state or by the county surveyor of any county in which all or part of the alleged vacancy is located;

(3) field notes describing the land and the lines and corners surveyed;

(4) a plat showing the results of the survey; and

(5) any proof that will show to the satisfaction of the commissioner that the applicant is a good-faith claimant.

(b) The good-faith claimant may file his application to purchase or lease and within 120 days from the date of filing the application with the commissioner have a survey made of the alleged vacancy and file the report, field notes, and plat in the land office together with proof that he is a good-faith claimant.

(c) If it appears to the commissioner that the alleged vacancy is not in conflict with land previously titled, awarded, or sold by the state, the commissioner shall grant the application under the provisions of this subchapter. Before the application is granted, the commissioner may hold a hearing at which interested persons may appear.

[Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 403, ch. 81, § 21(g), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 51.197. Failure to Exercise Preferential Right Within Certain Time

(a) If the good-faith claimant does not exercise his preferential right to purchase within 90 days after a decision of the commissioner under the provisions of this subchapter, the applicant shall be awarded an oil, gas, and mineral lease on not more than seven-eighths of the minerals.

(b) The consideration for the lease shall not be less than \$1 an acre, and the lease shall be for a primary term of five years.

(c) The lease shall be subject to other consideration and terms required by the board and the preferential right of a good-faith claimant until 90 days after final judicial determination under Section 51.194 of this code.

[Acts 1977, 65th Leg., p. 2433, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.198. Repayment of Applicant's Expenses

Within 90 days after the commissioner declares the vacancy to exist, the good-faith claimant shall repay to the applicant the expenses incurred in determining the existence of a vacancy, except filing fees, as provided in this subchapter or the good-faith claimant will lose all preferential rights to purchase or lease the land.

[Acts 1977, 65th Leg., p. 2433, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.199. Judicial Determination of Good-Faith Claimant

If the commissioner fails to determine whether or not there is a good-faith claimant or if his decision is questioned by an applicant or by a person asserting to be a good-faith claimant, the issue shall be determined in any suit brought under this subchapter to determine the existence of the alleged vacancy.

[Acts 1977, 65th Leg., p. 2433, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.200. Rights of Holders of Title and Holders of Interests in Title of a Claimant

(a) If all owners holding title under the claimant or an interest in the title under which the claimant claims to be a good-faith claimant accept the provisions of this section and contribute their proportionate part of the royalty reserved to the state and the royalty awarded to the applicant, the purchase by the good-faith claimant under the preferential right inures distributively to their benefit.

(b) The royalty reservations shall be deducted distributively and proportionately from the mineral interest of each owner including mineral leases if the area is under a mineral lease.

(c) As a condition of this subchapter, the good-faith claimant receiving the patent or award or for whose benefit a patent or award is received shall recognize the proportionate interests of other owners who benefit by the award of the preferential right.

(d) The consideration for the purchase shall be determined by the board without considering the potential value of minerals or any improvements located on the vacancy but shall not be less than \$1 an acre. The state retains the right to recover from the party or parties liable the market value when produced of all oil, gas, sulphur, or other minerals that may have been produced from the area before the effective date of the patent or award less an offset to the operator for the actual cost of development and production.

(e) No mineral lease executed by a good-faith claimant before filing the vacancy claim may give the lessee any interest in or to the vacancy.

(f) No title to land or to a mineral interest in land acquired from the state under a preferential right may be held to pass as after-acquired title because of any covenant of general warranty, description, or other provision contained in any conveyance executed before the date of award under the preferential right.

[Acts 1977, 65th Leg., p. 2433, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.201. Reservation of Minerals

(a) If a good-faith claimant purchases a vacancy located within five miles of a well producing oil, gas, or other minerals in commercial quantities, a free royalty of one-eighth of all oil, gas, sulphur, and other minerals shall be reserved to the state.

(b) If a vacancy that is not covered by Subsection (a) of this section is sold, a free royalty of one-sixteenth of all oil and gas production and one-eighth of all sulphur and other minerals shall be reserved to the state.

(c) If a good-faith claimant fails to exercise his preferential right to purchase a vacancy within 90 days after the commissioner determines the existence of the vacancy, the royalty reserved by the state shall be one-eighth of the oil and gas and one-sixth of the sulphur and other minerals.

(d) The state shall reserve as a free royalty at least one-eighth of all oil, gas, sulphur, and other minerals on vacancies that are leased by the state as determined by the board.

[Acts 1977, 65th Leg., p. 2434, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.202. Mineral Reservations Under Sale Made to Claimant After 90-Day Deadline

(a) If a good-faith claimant does not exercise his preferential right to purchase until after 90 days after the decision of the commissioner determining the existence of a vacancy, the sale made to the claimant shall be subject to a reservation to the state of a free royalty of one-eighth of all oil, gas, sulphur, and other minerals and subject to any lease made by the state to the applicant of not more than thirteen-sixteenths mineral interest as provided in this chapter.

(b) If the commissioner has previously executed a mineral lease on a larger portion of the minerals under the land, the lease shall be amended to cover only thirteen-sixteenths of the minerals so that it will conform to preferential rights given to good-faith claimants.

[Acts 1977, 65th Leg., p. 2434, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.203. Royalty for Applicant

If there is a valid subsisting application previously filed by an applicant on the date that the good-faith claimant files his application to purchase under a preferential right, and if the good-faith claimant exercises his preferential right to purchase within 90 days after the commissioner's decision under this subchapter, a free royalty of one-sixteenth of all oil, gas, sulphur, and other minerals that may be produced from the land shall be added to the free royalty interest reserved to the state and shall be awarded by the state to the applicant. The free

royalty shall be deducted proportionately from the good-faith claimant's award.

[Acts 1977, 65th Leg., p. 2434, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.204. Lease of Vacancy for Mineral Development

(a) The instrument of sale for a vacancy shall provide that the purchaser is entitled to execute oil, gas, and mineral leases on the vacancy without the joinder or approval of the commissioner or the board.

(b) Bonus money and rentals paid under a lease executed under this section shall be paid to and shall be the property of the purchaser of the land.

(c) Any lease executed under the provisions of this section shall reserve to the state the free royalty provided in Section 51.201 of this code.

[Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.205. Appeal

(a) A person who is aggrieved by any action taken by the commissioner under the provisions of this subchapter or with reference to any application to purchase or lease a vacancy may institute suit in the district court of any county in which part of the land is located to try the issues of boundary, title, ownership of any alleged vacancy involved, and preferential rights of the person.

(b) Within 30 days after the suit is filed, the plaintiff shall have a certified copy of the original petition served on the attorney general and the commissioner by the sheriff or a constable of Travis County and shall have the officer's return filed with the papers in the suit.

(c) Whether the attorney general answers or intervenes in the suit or institutes a suit, the venue of all suits following the filing of the application shall be in the county in which the land or part of the land is located.

(d) If the litigation is prosecuted to a final judgment, the judgment is binding on the state.

(e) The attorney general must intervene on behalf of the state in suits brought under this section.

[Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.206. Effect of Land Office Records on Certain Vacancies

In any case involving the boundary, title, or possession of surveys partly or wholly included in any incorporated city, town, or village validated under Section 1, Chapter 254, General Laws, Acts of the 42nd Legislature, Regular Session, 1931,¹ where there is sought to be established a vacancy between surveys, the field notes and official maps in use in

the land office at the date of the incorporation are conclusive concerning the nonexistence of the vacancy. If no vacancy appears from the field notes or maps, it is conclusively presumed that no vacancy exists.

[Acts 1979, 66th Leg., p. 2006, ch. 785, § 8, eff. June 13, 1979.]

¹ Civil Statutes, art. 5305a (repealed).

[Sections 51.207 to 51.240 reserved for expansion]

SUBCHAPTER F. PATENTS

§ 51.241. Issuance of Patent

The commissioner shall issue a patent when the records of his office reflect that full payment for land has been made where required and fees that are due on the land have been paid to the land office and have not been withdrawn, including the fee for recording the patent in the county or counties in which the land is located.

[Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.242. Patent Fees

When a person applies for a patent, he shall pay to the land office in addition to all other required payments a fee set by the commissioner in an amount not less than \$1 for each county in which all or a part of the land is located and shall give the name and address of the owner or agent.

[Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 404, ch. 81, § 21(h), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 51.243. Requisites of a Patent

(a) Each patent for land from the state shall be issued in the name and by authority of the state under the seal of the state and the land office and shall be signed by the governor and countersigned by the commissioner.

(b) Before the patent is delivered to the person who is entitled to it, it shall be registered in the land office patent book.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.244. Delivery of Patent

(a) When a patent is ready for delivery, the commissioner shall send it, together with the check for payment of the fee required by Section 51.242 of this code and the name and address of the owner or his agent, by registered mail to the clerk of the proper county.

(b) On receiving the patent, the clerk shall record it and shall send the patent, together with the name and address of the owner or his agent and the remaining recording fees, by registered mail to the clerk of another proper county until the patent has been recorded in each county in which all or part of the land is located.

(c) After the patent is recorded in all the proper counties, it shall be sent by registered mail to the proper party.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.245. Deceased Patentee

A patent issued in the name of a person who is deceased at the time the patent is issued conveys and secures valid title to the heirs or assignee of the deceased person.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.246. Acquisition of Deed of Acquittance to Excess Acreage

(a) If the area of a tract of land that is titled or patented exceeds the quantity provided in the title or patent and if under the existing law the title to all or a part of the tract may be affected by the existence of the excess acreage, the person who owns the survey or portion of the survey or has an interest in it may pay for the total excess acreage in the survey or the total excess in a given tract out of the patented or titled survey at the price fixed by the board.

(b) Any person who owns an interest in a titled or patented survey or any portion of a titled or patented survey in which excess acreage is located and who desires to pay for the excess acreage shall file with the commissioner a request for an appraisal of the land with corrected field notes in the form provided by law, together with a sworn statement of facts relating to his right to purchase and other evidence of his right to purchase which may be required by the commissioner. The corrected field notes shall describe the patented tract, and if purchasing excess in a portion of a tract, shall include a description of the portion in which the applicant is making application to purchase excess.

(c) If it appears that excess acreage actually exists and that the applicant is entitled to obtain it under the law, the commissioner shall execute a deed of acquittance covering the land in the name of the original patentee or his assignees with a mineral reservation or with no mineral reservation accordingly as may have been the case when the survey was titled or patented.

(d) The transfer shall inure distributively to the benefit of the lawful owners of the land in proportion to their holdings.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.247. Patents for Land That Cannot be Patented by Other Methods

(a) Any headright survey, homestead donation, preemption survey, scrip survey, or other survey awarded or sold before August 20, 1931, which has been held and claimed in good faith by a person for 10 years before the date of application for a patent but which cannot be patented under existing law may be patented on payment to the commissioner of the purchase price as set by the board.

(b) The patent shall be issued to the owner of record as shown in the records of the land office and shall inure distributively to the legal owners of the land.

(c) If a tract of school land has been occupied by mistake as part of another tract, the occupant shall have a preference right for a period of six months after discovery of the mistake to purchase the land at the same price paid or contracted to be paid for the land actually conveyed to him.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.248. Doubtful Claim

If it appears to the commissioner from the records of his office or from information given to him under oath that there is an illegality in a claim, the commissioner, if he considers it necessary, shall refer the matter to the attorney general, and the attorney general's written decision is sufficient authority for the commissioner to issue or withhold the patent.

[Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.249. Conflicting Surveys

If conflicts exist between surveys, the commissioner shall issue patents to the portions of the surveys that are free from conflict.

[Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.250. Conflicting Title

(a) If a patent to land is issued by mistake on any valid claim for land and is afterwards found to be in conflict with an older title, the owner of the patent or any part of the land embraced by the patent which is in conflict may return the patent to the commissioner for cancellation. If the owner of the land that is the subject of the conflict cannot obtain the patent, he shall return to the commissioner legal

evidence of his title to the patent or part of the patent.

(b) The person returning the patent or filing the evidence also shall make and file with the commissioner an affidavit stating that he is still the owner of the land and has not sold or transferred it.

(c) If the land office records or a duly certified copy of a judgment of a court of competent jurisdiction that has adjudicated the title reflects that a conflict exists, the commissioner may cancel the patent or the part of a patent that appears to belong to the party making the application.

(d) In cases where a survey in a block or system of surveys conflicts on one side or more, and omits an unpatented strip on another side or sides due to the patent being issued on an erroneous subsequent survey not conforming to the original and recognized pattern for the block or system, the commissioner, at the request of all parties owning under said patent, may cancel said patent and issue a corrected patent that shall conform to said block or system of surveys. In the event that excess acreage exists, a deed of acquittance shall be procured, as provided by law, and will be issued simultaneously with the corrected patent. This Subsection (d) shall not adversely affect the rights of any party in or entitled to possession of land affected by this subsection, but merely clarifies that the ownership in any land in a block or system of surveys exists as if the patent had been correctly issued on the date the erroneous patent was issued. The rights of a claimant under applicable law shall be construed as if the corrected patent had been originally issued.

[Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2239, ch. 535, § 1, eff. Aug. 31, 1981.]

§ 51.251. Partial Conflict of Title

If there is only a partial conflict of title under a patent, the commissioner in the manner provided in Section 51.250 of this code may cancel any patent presented to him and issue a patent to the applicant for the portion of the land that is covered by his original patent but that is not in conflict with the older title if the area can be determined from the field notes.

[Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.252. Refund of Purchase Money

(a) If a patent cannot be issued for land because of a conflict, erroneous survey, or illegal sale or if a patent is issued for land and is later canceled, the comptroller, on proper proof, may issue his warrant to the proper parties for amounts paid in good faith to the State Treasury for taxes, lease payments, or purchase payments on this land.

(b) Proof of these good-faith payments may be shown by the certificate of the commissioner if the records of the land office show that a patent cannot be issued because of conflict, erroneous survey, or illegal sale or that a patent has been canceled.

(c) The provisions of this section do not apply to surveys on which the errors may be corrected.

[Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.253. Corrected Patent

(a) An owner of land in one or more patented surveys may apply to the General Land Office for a corrected patent to correct scriveners' errors or obvious errors in the field note description of the original patent as determined by the commissioner. The application must clearly identify the error in the original patent.

(b) The General Land Office may adopt rules relating to the implementation and operation of this section, including rules requiring the payment of reasonable filing and processing fees by an applicant for a corrected patent.

[Acts 1983, 68th Leg., p. 752, ch. 182, § 1, eff. Sept. 1, 1983.]

[Sections 51.254 to 51.290 reserved for expansion]

SUBCHAPTER G. EASEMENTS

§ 51.291. Grants of Easements

The commissioner may execute grants of easements for rights-of-way across unsold public school land, the portion of the Gulf of Mexico within the jurisdiction of the state, and all islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits for telephone, telegraph, electric transmission, and powerlines, for oil pipelines, including pipelines connecting the on-shore storage facilities with the offshore facilities of a deepwater port, as defined by the federal Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), gas pipelines, sulphur pipelines, and other electric lines and pipelines of any nature, and for irrigation canals, laterals, and water pipelines.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.292. Easements and Leases for Certain Facilities

The commissioner may execute grants of easements or leases for electric substations, pumping stations, loading racks, and tank farms to be located on state land other than land owned by The University of Texas System.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.293. Easements on University Land

(a) The Board of Regents of The University of Texas System may continue to execute all right-of-way easements under authority already granted across land that belongs to the state but is dedicated to the support and maintenance of The University of Texas System for telephone, telegraph, electric transmission, and powerlines, for oil pipelines, gas pipelines, sulphur pipelines, and other electric lines and pipelines of any nature, and for irrigation canals, laterals, and water pipelines.

(b) The board of regents may continue to execute under authority already granted grants of easements or leases for the erection and maintenance of electric substations, pumping stations, loading racks, and tank farms on university land.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.294. Forms for Grant

Easements granted under Sections 51.291 through 51.293 of this code shall be granted on forms approved by the attorney general.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.295. Conditions for Easement

Telephone, telegraph, electric transmission, powerline, and pipeline right-of-way easements and easements or rights-of-way for irrigation canals, laterals, and water pipelines shall be executed on terms to be determined by the commissioner or the board of regents, but no easement for an oil, gas, or sulphur pipeline or a telephone, telegraph, electric transmission, or powerline easement may be granted that does not provide for the annual privilege fee of not less than two and one-half cents a lineal rod a year.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.296. Term of Easements

(a) Except as provided in Subsection (b) of this section, no grant of easement or lease enumerated under Sections 51.291 through 51.293 of this code may be granted for a term that is longer than 10 years, but an easement may be renewed by the officials responsible for execution of grants of easement and leases under this subchapter.

(b) A right-of-way easement for a pipeline connecting onshore storage facilities with the offshore facilities of a deepwater port, as defined by the Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), may be granted for a term coincident with the term of the license issued by the secretary of transportation pursuant to the Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), and the easement may be renewed for additional terms

of up to 10 years coincident with the term for each renewal of the license.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.297. Recording Easements

(a) Each easement granted under Sections 51.291 through 51.293 of this code shall be recorded in the county clerk's office of the county in which the land is located, and the recording fee shall be paid by the person who obtains the easement.

(b) The person who obtains the easement shall furnish to the commissioner a certificate showing that the easement has been recorded.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.298. Annual Privilege Fee

(a) A person who occupies or uses any unsold public school land, any islands, saltwater lakes, bays, inlets, marshes, or reefs owned by the state within tidewater limits, any portion of the Gulf of Mexico within the jurisdiction of the state, or any unsold public land dedicated to The University of Texas System as a right-of-way for a telephone, telegraph, electric transmission, or powerline, for an oil pipeline, gas pipeline, or sulphur pipeline, or for an irrigation canal, lateral, or water pipeline shall pay annually in advance to the commissioner an amount equal to two and one-half cents a lineal rod a year for each rod of telephone, telegraph, electric transmission, or powerline, or each rod of oil or gas pipeline.

(b) The annual privilege fee shall be paid by those persons who have not previously paid this fee on all oil pipelines, gas pipelines, and telephone, telegraph, electric transmission, and powerlines that are in existence and located on public land mentioned in Subsection (a) of this section.

(c) The fee shall be paid annually unless the grant of the easement makes some other provision.

(d) A higher annual privilege fee may be set by contract between the authorized officials and the grantee of the easement.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.299. Fees for Certain Facilities

The rent to be charged for an easement or lease for an electric substation site, pumping station, loading rack, or tank farm shall be an amount agreed to between the lessee and the board of regents with respect to university land and the commissioner with respect to other state land.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.300. Disposition of Income

Income received by the commissioner under this subchapter from public school land shall be credited to the available school fund, and income received from university land shall be credited to the available university fund. Other income received by the commissioner on other land under this subchapter shall be credited to the General Revenue Fund.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.301. Interest on Past-Due Payments

(a) Payments under this subchapter that are past due shall bear interest at a rate of 10 percent a year.

(b) If no date for payment is provided in the contract or if no written contract has been executed, the unpaid annual fees shall bear interest at a rate of 10 percent calculated from January 1 following the year for which the annual privilege fee was due.

[Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.302. Prohibition and Penalty

(a) No person may construct any of the facilities listed in Sections 51.291 through 51.293 of this code on or across any section or part of a section of land of the character enumerated in Sections 51.291 through 51.293 of this code and owned by the state, nor may any person who has not acquired a proper easement as provided in this subchapter and who owns or possesses any of the facilities listed in Sections 51.291 through 51.293 of this code that are now located on or across any section or part of a section of land of the character enumerated in Sections 51.291 through 51.293 of this code and owned by the state continue in possession of the land unless he obtains from the commissioner or the board of regents a grant of a right-of-way easement or other easement for the land on which the facility is to be constructed or is located.

(b) A person violating the provisions of Subsection (a) of this section shall be liable to a penalty of \$100 a day for each day that a violation occurs. The penalty shall be recovered by the attorney general.

[Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.303. Venue

The venue for suits by the state under Sections 51.291 through 51.302 of this code or for violation of provisions of Sections 51.291 through 51.302 of this code shall be in Travis County.

[Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.304. Easements for Soil Conservation and Flood Prevention

The commissioner may execute grants of easements on unsold public school land to conservation and reclamation districts for soil conservation and flood prevention projects authorized by the Watershed Protection and Flood Prevention Act (16 U.S.C. Section 1001 et seq.), as amended.

[Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.305. Terms and Form of Grant

The grant of the easement may contain any provisions that the commissioner considers necessary to protect the interests of the state and may be perpetual or for a term of years.

[Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.306. Consideration

The consideration paid to the state for the grant of the easement under Section 51.304 of this code shall be determined by the commissioner to compensate the state for any damage to the land or to the use of the land caused by the easement, but if the commissioner determines that the benefits resulting from the grant of the easement are more than the damage, the commissioner may waive the consideration for the easement.

[Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.307. Reservation of Mineral Rights

Mineral rights together with the right to explore for, produce, and market the minerals in land granted as an easement under Section 51.304 of this code shall be reserved to the state and shall be subject to lease for minerals in the same manner as other unsold public school land.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.308 to 51.340 reserved for expansion]

**SUBCHAPTER H. SALE OF TIMBER,
GAYULE, AND LECHUGUILLA****§ 51.341. Definition**

In this subchapter, "timbered land" means land that is valued chiefly for the timber located on it.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.342. Sale of Timber

Timber located on public land shall be sold in full tracts for cash at its fair market value.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.343. Rules

Subject to the provisions of this chapter, the commissioner shall adopt rules for the sale of timber which are considered necessary and judicious. [Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.344. Application to Purchase Timber

An application to purchase timber shall be made in the manner provided for filing an application to purchase land.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.345. Ingress and Egress From Land

The purchaser of timber without the land is entitled to ingress and egress on the land for a period of five years after the date of the award to remove or protect the timber on the land.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.346. Reversion of Title to Timber

After the five-year period provided in Section 51.345 of this code, title to the timber reverts to the fund to which the land belongs and is subject to sale by the state.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.347. Sale of Gayule and Lechuguilla

The board may sell the gayule or lechuguilla growing or found on the public school land, exclusive of timber.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.348. Conditions of Sale

The sale of gayule and lechuguilla may be on any terms and conditions and with any limitations that the board considers most advantageous and in the best interest in protecting the public school fund and the state.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.349. Contracts

The board may enter into any contract including an executory contract of sale which they consider wise for the purpose of having the commercial properties and value of gayule and lechuguilla determined, but it may not spend any public money or incur any liability on behalf of the state through these contracts.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.350. Replacement Value for Unlawful Use

(a) If a person without authority or right cuts or removes any mineral, gayule, or lechuguilla from land that belongs to the permanent school fund, a judgment shall be rendered against the person on behalf of the state in an amount that is equal to the value of the substance that was cut or removed.

(b) The judgment shall be collected in the same manner as a collection is made under execution.

(c) After the judgment is collected, the money shall be paid to the State Treasurer, who shall credit the money to the public school fund.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 52. OIL AND GAS**SUBCHAPTER A. GENERAL PROVISIONS****Sec.**

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SUBCHAPTER A. GENERAL PROVISIONS

§ 52.001. Definitions

In this chapter:

- (1) "Commissioner" means the Commissioner of the General Land Office.
- (2) "Land office" means the General Land Office.
- (3) "Board" means the school land board.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.002 to 52.010 reserved for expansion]

SUBCHAPTER B. LEASE OF PUBLIC SCHOOL AND GULF LAND

§ 52.011. Area Subject to Lease

Under the provisions of this subchapter, the board may lease to any person for the production of oil and natural gas:

- (1) islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits;
- (2) the portion of the Gulf of Mexico within the jurisdiction of the state; and
- (3) all unsold surveyed and unsurveyed public school land; and
- (4) all land sold with a reservation of minerals to the state under Section 51.054 of this code in which the state has retained leasing rights.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5245, ch. 965, § 6, eff. June 19, 1983.]

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 52.012. Conditions for Lease

Oil and gas shall only be leased together and shall be leased separately from other minerals.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.013. Determination of Lease Price and Delay Rentals

The board shall determine the price at which areas under this subchapter shall be leased and the amount of delay rentals that shall be charged.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.014. Date for Lease and Notice

(a) The date for lease of areas covered by this subchapter shall be set and notice of the date shall be given in the manner provided in Sections 32.105 and 32.107 of this code.

(b) Notice of areas being offered for lease shall be advertised for a period of 30 days before the lease date.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.015. Application for Lease

(a) Each application for a separate area and the first payment shall be delivered to the land office on or before the day and hour on which the area is subject to lease.

(b) The application and payment shall be delivered in a sealed envelope endorsed with "application to lease oil and gas" and the date on which the area is subject to lease.

(c) Any application received up to the hour in which the applications are to be opened shall be considered to be properly delivered regardless of whether it is opened or sealed or endorsed or unendorsed.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.016. Special Fee

Each bidder on a lease under this subchapter shall remit by separate check a special sale fee in the amount and in the manner provided in Section 34-061 of this code.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.017. Keeping and Opening Bids

The envelopes shall be kept securely and unopened by the commissioner or his chief clerk until the day on which the applications are to be opened, and at that time, the board shall open the envelopes in the presence of any persons who desire to be present.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.018. Void Application

An application that includes two or more areas or that is for a price that is less than the fixed royalty and price per acre is void.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.019. Tie Bids

(a) If the highest bid for an area is made by more than one applicant, all applications shall be rejected and the board shall set a date for lease of the area that shall not be later than the 15th day of the following month.

(b) The area will be subject to lease in the same manner as it was originally subject to lease.

(c) No bids for a lease shall be considered if the price is less than the highest bid offered in the original application.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.020. Return of Payments on Rejected Applications

The State Treasurer shall return all amounts paid on rejected applications.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.021. Term of Lease

A lease granted under this subchapter shall be for a primary term not to exceed five years and for as long after that time as oil or gas is produced from the leased area.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5247, ch. 965, § 9, eff. June 19, 1983.]

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 52.022. Royalty and Delay Rentals

(a) In addition to the cash amount bid for a lease, the area included in the lease shall be leased for not less than one-eighth of the gross production of oil produced and saved, or its value, and not less than one-eighth of the gross production of gas produced and sold off the area or its value, plus an amount determined by the board, until production is secured.

(b) If production is secured in commercial quantities and the payment of royalty begins and continues to be paid, the lessee is exempt from further delay rental payments on the acreage.

(c) If production ceases and royalty is not paid, the lessee shall pay at the end of the lease year in which the royalty ceased to be paid and annually after that time in advance, an amount determined

by the board for as long as the lessee desires to maintain the rights acquired under the lease, but not for more than five years from the date of the lease.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.023. Lease Provisions for Drilling and Reworking

Each lease shall provide that:

(1) if the production of oil or gas on premises leased under this subchapter ceases for any reason at or after the expiration of the primary term, the lease will not terminate if the lessee commences additional drilling or reworking operations within 60 days after the cessation of production;

(2) the lease shall remain in effect as long as the drilling and reworking operations continue in good faith and in a workmanlike manner, without interruptions, totaling more than 60 days during any one such operation; and

(3) if the drilling or reworking operations result in the production of oil or gas, the lease shall remain in effect as long as oil or gas is produced from the premises in paying quantities or payment of shut-in gas royalties or compensatory royalties is made as provided by law.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2005, ch. 785, § 6, eff. June 13, 1979.]

§ 52.024. Lease Provisions for Shut-In Oil or Gas Royalty and Compensatory Royalty

Each lease shall provide that:

(1) if at the expiration of the primary term or at any time after the expiration of the primary term a well or wells capable of producing oil or gas in paying quantities are located on the leased premises but oil or gas is not being produced for lack of suitable production facilities or a suitable market and the lease is not being maintained in force and effect, before the expiration of the primary term or if the primary term has expired, within 60 days after the lessee ceases to produce oil or gas from the well, the lessee may pay as a shut-in oil or gas royalty an amount equal to double the annual rental provided in the lease but not less than \$1,200 a year for each well capable of producing oil or gas in paying quantities;

(2) if the shut-in oil or gas royalty is paid, the lease shall be considered to be a producing lease and the payment shall extend the term of the lease for a period of one year from the end of the primary term or from the first day of the month next succeeding the month in which production ceased and after that if no suitable production facilities or suitable market for the oil or gas

exists, the lessee may extend the lease for four additional and successive periods of one year by paying the same amount each year on or before the expiration of the extended term;

(3) if, during the period the lease is kept in effect by payment of the shut-in oil or gas royalty, oil or gas is sold and delivered in paying quantities from a well located within 1,000 feet of the leased premises and completed in the same producing reservoir or in any case in which drainage is occurring, the right to continue to extend the lease by paying the shut-in oil or gas royalty shall cease, but the lease shall remain effective for the remainder of the year for which the royalty has been paid and for an additional period of not more than five years from the expiration of the primary term by the lessee paying compensatory royalty at the royalty rate provided in the lease of the value at the well of production from the well which is causing the drainage or which is completed in the same producing reservoir and within 1,000 feet of the leased premises;

(4) the compensatory royalty is to be paid monthly to the commissioner beginning on or before the last day of the month next succeeding the month in which the oil or gas is sold and delivered from the well located within 1,000 feet of or draining the leased premises and completed in the same reservoir;

(5) if the compensatory royalty paid in any 12-month period is in an amount less than the annual shut-in oil or gas royalty, the lessee shall pay an amount equal to the difference within 30 days from the end of the 12-month period; and

(6) none of these provisions will relieve the lessee of the obligation of reasonable development nor the obligation to drill offset wells as provided in Section 52.034 of this code.

[Acts 1977, 65th Leg., p. 2447, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 1858, ch. 438, § 1, eff. June 11, 1981.]

Section 2 of the 1981 amendatory act provides:

"On application of a lessee, a valid and existing mineral lease issued by the commissioner of the General Land Office before the effective date of this Act that covers any state-owned minerals shall be amended by the commissioner of the General Land Office, by instrument in writing, to include the provisions in Section 52.024, Natural Resources Code, as amended by this Act."

§ 52.025. Disposition of Lease Payments

The State Treasurer shall credit the permanent school fund with amounts received from unsurveyed school land and with two-thirds of the amount received from other areas and shall credit the General Revenue Fund with the remaining one-third of the payments for the other areas.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.026. Lease Transfer

(a) A lessee of an area under this subchapter may transfer his lease at any time.

(b) The transfer of the lease shall be recorded in any county in which all or part of the leased area is located.

(c) Within 90 days after the execution of the transfer, the recorded transfer or a certified copy of the recorded transfer accompanied by a filing fee set by the commissioner in an amount not less than \$5 shall be filed in the land office.

(d) The transferee shall succeed to all rights and be subject to all obligations and penalties of the original lessee.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 404, ch. 81, § 21(i), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 52.027. Lease Relinquishment

(a) A lessee may relinquish his lease to the state at any time by recording the relinquishment in each county in which all or part of the leased area is located.

(b) Within 90 days after the execution of the relinquishment, the recorded relinquishment or a certified copy of the recorded relinquishment together with a filing fee set by the commissioner in an amount not less than \$5 shall be filed in the land office.

(c) After the lessee relinquishes the area, he is relieved of any further obligations to the state, but the relinquishment does not release the lessee from any obligations or liabilities previously accrued in favor of the state.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 404, ch. 81, § 21(j), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 52.028. Suspension of Oil and Gas Leases

(a) If an oil and gas lease issued by the commissioner is involved in litigation relating to its validity or to the authority of the commissioner to lease the land, the primary term of the lease shall be suspended and all obligations imposed by the lease set aside during the period of the litigation.

(b) If the litigation is instituted at least six months before the expiration of the primary term, after final judgment is rendered, the primary term

provided in the lease shall begin to run again and shall continue to run for the remainder of the period specified in the lease and all obligations and duties imposed by the lease shall be operative.

(c) The lessee shall pay all annual delay rentals and any royalties that accrue during the period of litigation in the same manner as they are paid during the period of an extended primary term. The delay rentals paid during the period of litigation shall be held and returned to the lessee if the state is unsuccessful in the litigation.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.029. Forfeiture of Rights

The provisions of Subchapter F of this chapter governing the forfeiture and reinstatement of rights apply to forfeiture and reinstatement of leases issued under this subchapter, and on forfeiture of a lease, the area covered by the lease may be leased, after advertisement, by any other person.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.030. Refund of Lease Money in Certain Situations

(a) If a lessee is prevented from exploring, developing, drilling, or producing oil and gas from the tract leased to him as a result of the action of any agency of the United States or of this state during the entire primary term of the lease, he is entitled to a refund of all money paid for bonus, delay rentals, and other fees under the lease as provided by legislative appropriation.

(b) A refund shall be made only on verification of the claim by the board or on the judgment of a court of competent jurisdiction.

(c) A lessee who has a claim under this section is given permission to bring suit against the state within two years after the expiration of the lease in any court of competent jurisdiction to recover the money paid.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.0301. Suspension of Terms of Lease in Certain Situations

(a) If the owner of a valid oil and gas lease granted by the state is denied access to or is denied a permit to drill on or produce from the leased premises by any duly constituted authority of the United States after a bona fide attempt has been made by the owner to obtain access or a permit to drill on or produce from the leased premises, the owner may file with the board an application describing and giving the date of the action that deprives him of access to or the right to drill on or produce from the premises.

(b) If the board is satisfied that the facts included in the application are true, the board may enter an order in its minutes suspending the running of both the primary and the principal term of the lease or suspending any condition, obligation, or duty under the lease, from the date of the cause for the suspension through the continued existence of the cause for the suspension, so long as the lessee continues to make the annual rental payments that are stipulated in the lease on each anniversary date of the lease during the period of suspension.

(c) Until 90 days after the board enters an order in its minutes stating that the cause for suspension has ceased to exist, the oil and gas lease shall remain in status quo, and all obligations and conditions existing under the lease or any of those obligations or conditions that are suspended by the board are inoperative and of no force and effect except for the obligation to pay delay rentals.

(d) Ninety days after the board enters its order stating the cause for suspension has ceased to exist, the oil and gas lease shall again become operative if the rental payments have been made during the period of suspension, and all suspended obligations and conditions, including the payment of rentals, shall again attach and be in force. In the case of the suspension of the primary and principal terms of the lease, the lease shall continue in force for a period equivalent to the unexpired term of the lease on the date the cause of suspension began.

(e) The commissioner shall give notice immediately to the lessee of the entry of an order stating that the cause of suspension has ceased to exist, provided annual rental payments have been made.

(f) This section may not be construed as abridging any rights or privileges conveyed under Chapter 287, Acts of the 47th Legislature, Regular Session, 1941 (Article 5366a, Vernon's Texas Civil Statutes). [Acts 1979, 66th Leg., p. 2006, ch. 785, § 7, eff. June 13, 1979.]

§ 52.031. Extension of Lease by Commissioner

(a) At the expiration of the primary term of a lease made under the provisions of this subchapter, if production of oil or gas has not been obtained on the leased premises but drilling operations are being conducted in good faith and in good and workmanlike manner, the lessee may file in the land office on or before the expiration of the primary term a written application to the commissioner for a 30-day extension of the lease accompanied by \$3,000 for 640 acres or less or \$6,000 for more than 640 acres.

(b) The commissioner shall extend the lease in writing for a 30-day period from the expiration of the primary term and as long after that time as oil or gas is produced in paying quantities.

(c) As long as drilling operations are being conducted, the lessee may submit an application and

payment during any 30-day extended period for an additional extension of 30 days. On receiving the application and payment, the commissioner shall again extend the lease in writing so that it will remain effective for an additional 30-day period and as long after that time as oil or gas is produced in paying quantities.

(d) No lease may be extended under this section for more than 390 days after the expiration of the primary term unless production is obtained in paying quantities.

[Acts 1977, 65th Leg., p. 2449, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.032. Regulation of Development and Operations

(a) Development and operations on areas covered by this subchapter shall be done insofar as practicable in a manner that will prevent the pollution of water, destruction of fish, oysters, and other marine life, and obstruction of navigation.

(b) The commissioner shall adopt and enforce rules that may be necessary for the purposes stated in Subsection (a) of this section.

(c) Any rules and changes of rules adopted under this section shall be submitted to the attorney general for his written approval before the rules or their changes become effective.

[Acts 1977, 65th Leg., p. 2449, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.033. Access to Land

(a) If it is necessary for the lessee to enter the enclosed land of another person for the purpose of ingress and egress to and from the area leased from the state and if the lessee and the owner cannot agree on the place or the conditions of entry and exit, the lessee or his agent may petition the commissioner's court of the county in which all or part of the enclosure is located to open the places of ingress and egress that may be necessary.

(b) On filing the petition, the commissioner's court shall delineate the roads necessary for the stated purpose in the manner provided for delineating third-class public roads.

[Acts 1977, 65th Leg., p. 2449, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.034. Offset Wells

(a) If oil or gas is produced in commercial quantities from a well located on a privately owned area and the well is located within 1,000 feet of an area leased under this subchapter, the lessee of the state area shall begin in good faith and prosecute diligently the drilling of an offset well or wells on the area leased from the state within 60 days after the initial production on the privately owned area.

(b) An offset well shall be drilled to a depth and the means shall be employed which may be necessary to prevent undue drainage of oil or gas from beneath the state area.

(c) Within 30 days after an offset well has been completed or abandoned, a log of each well shall be filed in the land office.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.035 to 52.070 reserved for expansion]

SUBCHAPTER C. DEVELOPMENT OF RIVERBEDS AND CHANNELS

§ 52.071. Authority Over Riverbeds and Channels

The riverbeds and channels belonging to the state are subject to development by the state and to lease or contract for recovery of oil and gas.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.072. State Policy

(a) With regard to leases and contracts for the development of riverbeds and channels, it is the policy of the state that activities of the state and all lessees and contracting parties or their heirs, successors, or assigns under a lease or contract shall comply with laws of the state and rules and orders of any state agency that are applicable to development of oil and gas bearing land in the state by persons other than the state.

(b) Each lease and contract issued under the provisions of this subchapter is subject to the provisions of Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.073. Area Subject to Lease

Riverbeds and channels that belong to the state may be leased to any person by the board under the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.074. Size of Tract

Subject to the conditions in this subchapter, riverbeds and channels shall be leased in tracts of the size determined by the board.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.075. Board Meetings

(a) The board may transact business only at a meeting attended by two or more of its members.

(b) The member calling the meeting shall give written notice of the meeting to the other members.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.076. Duty to Advertise

(a) The board shall advertise for proposals:

(1) to lease riverbeds and channels for oil and gas development;

(2) to drill riverbeds and channels on consideration involving compensation with oil and gas or money so that the state will receive a portion of the oil and gas as it is produced or advanced royalties paid in money; and

(3) to purchase oil and gas in place or recoverable without requiring mineral development.

(b) The board shall advertise the proposals as provided in Section 32.107 of this code.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.077. Bids

(a) The board may receive bids on all proposals listed in Section 52.076 of this code.

(b) The board may accept any bid it considers to be in the best interest of the state, or it may reject any and all bids.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.078. Special Fee

Each bidder on a lease under this subchapter shall remit by separate check a special sale fee in the amount and in the manner provided in Section 34-061 of this code.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.079. Contract to Drill Wells

(a) If the board considers it advisable to reject all bids, it may give additional notice for bids or it may enter into a contract for drilling of the wells.

(b) A well that is drilled by order of the board shall be done under a contract let on competitive bids to the lowest and best bidder for a completed well.

(c) A contractor drilling under a contract with the board shall carry workmen's compensation insurance for all employees engaged in the drilling operation.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.080. Forms for Lease and Contract

Leases and contracts for the development of riverbeds and channels shall be executed on forms approved by the attorney general and the board.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.081. Procedure for Orders and Contracts

Orders and contracts made or entered into by the board shall be authorized at a meeting of the board and shall be signed by two members of the board. The orders and contracts shall be approved as to their legality by the attorney general.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.082. Term of Lease

A lease granted under this subchapter shall be for a primary term not to exceed five years and for as long after that time as oil or gas is produced from the leased area.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5248, ch. 965, § 10, eff. June 19, 1983.]

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 52.083. Conditions of Lease

Oil and gas shall only be leased together and separately from other minerals.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.084. Special Lease Provisions

Each lease shall include the provisions required by Sections 52.023 and 52.024 of this code.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.085. Prevention of Pollution

(a) Each lease and contract shall require the lessee or contracting party or his successors or assigns to use the highest degree of care and all proper safeguards to prevent pollution of streams.

(b) If the lessee or contracting party fails to meet the requirements in Subsection (a) of this section, the state is entitled to take charge of the property immediately and to cancel the lease.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.086. Development of Riverbeds and Channels More Than Two Miles From a Well

(a) The board may not lease or contract for the development or drilling of any riverbed or channel

located at the time the lease or contract is to be executed more than two miles from a well producing or capable of producing oil or gas in paying quantities unless the owner of the leasehold or mineral interest in the oil or gas estate in land located adjacent to or within two miles of the riverbed or channel desires to drill a test well in, under, or within two miles of the riverbed or channel.

(b) The owner of the interest desiring to drill the test well shall apply to the board for an oil and gas lease on the available portions of the riverbed or channel he desires to lease, indicating the site in or within two miles of the riverbed or channel where he desires to drill the well.

(c) Within 60 days after the date the application is received, the board shall lease the riverbed or channel to the highest bidder for oil and gas development.

(d) The leased area shall be limited to the portion of the riverbed or channel which is within two miles of a point therein at the end of a line drawn from the designated well site perpendicular to the general course of the riverbed or channel.

(e) The lease shall expire at the end of two years from the date of its delivery to the highest bidder unless oil or gas is produced in paying quantities from the portion of the riverbed or channel covered by the lease or from adjacent or nearby land with which the leased land or a portion of it has been lawfully pooled or unitized so that royalties payable under the lease are accruing to the state on that date.

[Acts 1977, 65th Leg., p. 2452, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.087. Determination of Lease Price and Delay Rentals

The board shall determine the price at which riverbeds and channels shall be leased and the amount of delay rentals that shall be charged.

[Acts 1977, 65th Leg., p. 2452, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.088. Royalty and Delay Rentals

(a) In addition to the cash amount bid for a lease, the board shall lease the area for not less than one-eighth of the gross production of oil produced and saved or its value and not less than one-eighth of the gross production of gas produced and sold off the area or its value plus an amount determined by the board until production is secured.

(b) If production is secured in commercial quantities and the payment of royalty begins and continues to be paid, the lessee is exempt from further delay rental payments on the acreage.

(c) If production ceases and royalty is not paid, the lessee shall pay at the end of the lease year in which the royalty ceased to be paid and annually after that time in advance, in an amount determined by the board as long as the lessee desires to maintain the rights acquired under the lease, but not for more than five years from the date of the lease.

[Acts 1977, 65th Leg., p. 2452, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.089. Mineral Development Fund

(a) Money collected by the board under the provisions of this subchapter shall be deposited in the State Treasury and shall be credited to the mineral development fund.

(b) The board may make disbursements from the mineral development fund to carry out the provisions of this subchapter and the necessary amounts for disbursement are appropriated from the fund.

(c) Any portion of the fund not needed for the purposes stated in Subsection (b) of this section shall be paid from time to time to the General Revenue Fund, but any portion of the mineral development fund that belongs to the public school fund shall be paid to that fund.

[Acts 1977, 65th Leg., p. 2452, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.090. Extension of Lease

A lease may be extended in the manner provided in Section 52.031 of this code.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.091. Refund of Lease Money in Certain Situations

A lessee under this subchapter is entitled to a refund of all money paid for bonus, delay rentals, and other fees for the reasons and in the manner provided in Section 52.030 of this code.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.092. Power of Eminent Domain

The board or any person including a leaseholder or assignee, who has a contract with the board for the development of oil and gas resources in riverbeds and channels may exercise the power of eminent domain to condemn land as provided in the general laws of this state for the purposes stated in Section 52.093 of this code.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.093. Eminent Domain Purposes

The board and any person, including a leaseholder or assignee, who has a contract with the board for the development of oil and gas resources in riv-

erbeds and channels may exercise the power of eminent domain for the following purposes:

(1) to secure additional adjoining land that may be necessary to erect power machinery and to construct storage tanks and slush pits for the operation of the river or channel development and to prevent or lessen the dangers of pollution involved in the drilling of any well in the riverbed or channel; and

(2) to secure a right-of-way to and from any well that is drilled in the riverbed or channel so that the board or any of the leaseholders or contracting parties may go to and from the well and may transport any materials necessary to develop the riverbed or channel and to transport oil and gas away from the well.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.094. Drilling Offset Well on Condemned Land

(a) If the landowner or other interested party and the board or the lessee of the riverbed or channel cannot agree on the amount of damages, if any, and it is necessary to commence condemnation proceedings and if it is necessary for the landowner or other interested party to drill an offset well within the area to be condemned, the mineral rights of the condemned party are superior to the surface rights of the condemning party.

(b) If there is any conflict surrounding the drilling of an offset well under a permit from the Railroad Commission of Texas, the condemning party is required to move any interference or hindrance or to go around any offset well, and if he fails or refuses to immediately move the interference or hindrance on demand, the owner of the mineral rights is entitled to do so immediately without liability.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.095. Rights of Parties to Condemnation

It is the intent of this subchapter that the mineral rights of the owner are superior to the surface rights of the condemning party.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.096. Exclusion From Damages in Condemnation

In determining the damages resulting from condemnation, the commissioners or any other tribunal shall not consider the value of oil or gas located beneath the rights-of-way of the condemned property.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.097. Injunction

(a) No injunction may be granted against the board, its agents, or persons with whom it has contracted, to restrain the board from enforcing its orders or contracts or from carrying out any development that has begun or was contemplated by the board until notice is given to the board and its agents or the contracting parties and a hearing is held.

(b) Before an injunction or restraining order is issued or becomes effective, the court shall require the complaining party to execute a bond payable to the governor with good and sufficient sureties authorized to do business in this state in an amount determined by the court to be sufficient to protect the state from loss from drainage of the riverbed or channel, of lease or bonus or consideration, or from any other reason. In determining the amount of the bond, the court shall consider the probable and possible loss to the state by granting the injunction.

(c) The attorney general shall bring suit on the bond to recover any loss to the state caused by the suit for injunction.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.098. Appeal

(a) Either party to the suit for an injunction or restraining order is entitled to appeal from the final judgment.

(b) The appeal shall be returnable to the appellate court at once and shall have precedence in that court over all pending cases, proceedings, and causes of a different character.

(c) The court of appeals shall decide the questions involved in the appeal at as early a date as possible.

(d) If any question is certified to the supreme court or if writ of error is requested or granted, the supreme court shall set the cause for hearing immediately, and the cause shall have precedence over all other cases, proceedings, and causes of a different character. The supreme court shall decide the cause at as early a date as possible.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 799, ch. 291, § 90, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides, in part: "This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction."

§ 52.099. Venue

The venue for any suit arising from this subchapter either by or against the board and regardless of the kind or nature shall be in Travis County.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.100. Effect of Subchapter

The provisions of this subchapter do not repeal or supersede Chapter 138, Acts of the 41st Legislature, Regular Session, 1929 (Article 5414a, Vernon's Texas Civil Statutes), which validated, relinquished, quitclaimed, and granted to patentees and awardees and their assignees land and minerals that are included in surveys lying across or partly across watercourses and navigable streams in the state and that have been patented or awarded as provided in that chapter.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.101 to 52.130 reserved for expansion]

SUBCHAPTER D. ROYALTIES

§ 52.131. Payment of Royalty Generally

(a) Royalties due under a lease of state land or minerals that are required to be paid to the land office shall be due and shall be paid as provided in this section.

(b) Royalty on oil is due and payable on or before the 5th day of the second month succeeding the month of production and royalty on gas is due and payable on or before the 15th day of the second month succeeding the month of production.

(c) Royalty payments shall be accompanied by:

(1) an affidavit of the owner, manager, or other authorized agent, completed in the form and manner required by the land office and showing the gross amount and disposition of all oil and gas produced and the market value of the oil and gas;

(2) a copy of all documents, records, or reports confirming the gross production, disposition, and market value, including gas meter readings, pipeline receipts, gas line receipts, and other checks or memoranda of amount produced and put into pipelines, tanks, pools, and gas lines or gas storage;

(3) a check stub, schedule, summary, or other remittance advice showing by the assigned land office lease number the amount of royalty being paid on each lease; and

(4) other reports or records that the land office may require to verify the gross production, disposition, and market value.

(d) The lessee has the responsibility for paying royalties or having royalties paid by the date provided for payment in this section.

(e) Any royalty not paid or affidavits and supporting documents not filed when due shall become delinquent and a delinquency penalty of one percent for each 30-day period of delinquency or fractional part of that period shall be added to the amount owed, however, no penalty may be less than \$5. Payment of this penalty in no way operates to

prohibit the state's right of forfeiture as provided by law and does not postpone the date on which royalties were originally due. The penalty does not apply in cases of title dispute as to the state's portion of the royalty or to that portion of the royalty in dispute as to fair market value.

[Acts 1977, 65th Leg., p. 2455, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.132. Form of Payment

Except as provided in Section 52.133 of this code, royalty payments shall be made in cash, by bank draft drawn on a state or national bank in Texas, by a post-office or express money order, or in any other form that the law may provide for making payments to the State Treasury and are payable to the commissioner in Austin.

[Acts 1977, 65th Leg., p. 2455, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.133. Payment of Royalty in Kind

(a) In this section, "royalty" means royalty payable in a sum of money equal to the market value for the general area where produced and when run or royalty that may be collected in kind.

(b) Each oil or gas lease covering land leased by the board, by a board for lease other than the Board for Lease of University Lands, or by the surface owner of land under which the state owns the minerals, commonly referred to as Relinquishment Act land, which shall be subject to approval by the commissioner before it is effective, shall include a provision granting the board authorized to lease the land or the owner of the soil of Relinquishment Act land and the commissioner authority to take their royalty in kind, and the commissioner and the boards for lease may include any other reasonable provisions that are not inconsistent with this section.

(c) The option to take the royalty in kind may be exercised at any time or from time to time on not less than 60 days' notice to the holder of the lease.

(d) The board, the commissioner, each board for lease other than the Board for Lease of University Lands, or the owner of the soil under Subchapter F of this chapter may negotiate and execute sales contracts or any other instruments or agreements necessary to dispose of their portion of the royalty taken in kind.

(e) This section does not apply to or have any effect on the Board for Lease of University Lands or any lease executed on university land.

(f) This section shall not be construed to surrender or in any way affect the right of the state or the owner of the soil under existing or future leases to receive royalty from its lessee on the basis of the fair market value produced from state public land

or land under the provisions of Subchapter F of this chapter.

[Acts 1977, 65th Leg., p. 2455, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.134. Filing Contracts and Agreements

Copies of contracts for the sale or processing of gas and subsequent agreements and amendments to those contracts shall be filed in the land office within 30 days after the contracts, agreements, or amendments are made. These contracts and agreements received by the land office shall be held in confidence by the land office unless otherwise authorized by the lessee.

[Acts 1977, 65th Leg., p. 2456, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.135. Inspections and Examinations

The books and accounts, receipts, and discharges of all lines, tanks, pools, and meters and all contracts and other records relating to the production, transportation, sale, and marketing of the oil and gas are subject at any time to inspection and examination by the commissioner and the attorney general and governor or their representatives.

[Acts 1977, 65th Leg., p. 2456, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.136. Lien

The state has a first lien on all oil and gas produced on any lease area to secure payment of unpaid royalty and other amounts due.

[Acts 1977, 65th Leg., p. 2456, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.137 to 52.150 reserved for expansion]

SUBCHAPTER E. UNITIZATION OF LEASED AREAS

§ 52.151. Authorization to Operate Areas as Units

(a) The commissioner on behalf of the state or any fund that belongs to the state may execute agreements that provide for operating areas as a unit for the exploration, development, and production of oil or gas or both and to commit to the agreements the royalty interests in oil or gas or both reserved to the state or any fund of the state by law, in a patent, in a contract of sale, or under the terms of an oil and gas lease legally executed by an official, board, agent, agency, or authority of the state.

(b) The commissioner must find that the agreement is in the best interest of the state.

[Acts 1977, 65th Leg., p. 2456, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.152. Approval of Unit Agreements

(a) An agreement that commits the royalty interest in land belonging to the permanent school fund or the asylum funds in riverbeds, inland lakes, and channels, or in an area within tidewater limits, including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea must be approved by the board and executed by the owner of the soil if the agreement covers land leased for oil and gas under Subchapter F of this chapter.

(b) An agreement that commits the royalty interest in any land or an area not listed in Subsection (a) of this section must be approved by the board, official, agent, agency, or authority of the state which has the authority to lease or to approve the lease of the land for oil and gas.

[Acts 1977, 65th Leg., p. 2457, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.153. Agreement Provisions

(a) The agreement to operate areas as units may provide:

(1) that operations incident to drilling a well on any portion of a unit shall be considered for all purposes to be conduct of the operations on each separately owned tract in the unit by the several owners;

(2) that production allocated by the agreement to each tract included in the unit when produced shall be considered for all purposes to have been produced from the tract;

(3) that the agreement and lease, with respect to the interest of the state, shall be effective as long as oil or gas or both are produced from the unit in paying quantities and royalties are paid to the state; and

(4) that royalties reserved to the state or to any fund of the state on production from any tract or portion of a tract included in the unit shall be paid only on the portion of the production allocated to the tract by the agreement.

(b) The agreement may include any other provision which the board, official, agent, agency, or authority of the state which has the authority to lease or to approve the leasing of the land may consider necessary for the protection of the interests of the state.

[Acts 1977, 65th Leg., p. 2457, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.154 to 52.170 reserved for expansion]

SUBCHAPTER F. RELINQUISHMENT**§ 52.171. School and Asylum Lands**

The state hereby constitutes the owner of the soil its agent for the purposes herein named, and in consideration therefor, relinquishes and vests in the owner of the soil an undivided fifteen-sixteenths of

all oil and gas which has been undeveloped and the value of the same that may be upon and within the surveyed and unsurveyed public free school land and asylum lands and portions of such surveys sold with a mineral classification or mineral reservation, subject to the terms of this law. The remaining undivided portion of said oil and gas and its value is hereby reserved for the use of and benefit of the public school fund and the several asylum funds.

[Acts 1977, 65th Leg., p. 2457, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.172. Sale and Lease by Agent

The owner of said land is hereby authorized to sell or lease to any person, firm, or corporation the oil and gas that may be thereon or therein upon such terms and conditions as such owner may deem best, subject only to the provisions hereof, and he may have a second lien thereon to secure the payment of any sum due him. All leases and sales so made shall be assignable. No oil or gas rights shall be sold or leased hereunder for less than 10 cents per acre per year plus royalty, and the lessee or purchaser shall in every case pay the state 10 cents per acre per year of sales and rentals; and in case of production shall pay the state the undivided one-sixteenth of the value of the oil and gas reserved herein, and like amounts to the owner of the soil.

[Acts 1977, 65th Leg., p. 2457, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.173. Offset Wells

If oil and/or gas should be discovered in commercial quantities on lands not included in this law and within 1,000 feet of and draining land that is so included, or in any case where land so included in this law is being drained by production of oil or gas from land not so included, the owner, lessee, sublessee, receiver, or other agent in control of land included herein shall in good faith begin the drilling of a well or wells upon such land within 100 days after such well or wells on lands not so included commence to produce in commercial quantities, and shall prosecute such drilling with diligence to reasonably develop the land included hereunder and to protect such land against drainage by wells on other lands in the locality.

[Acts 1977, 65th Leg., p. 2458, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.174. Failure to Drill Offset

If such persons fail or refuse to begin the drilling of such well or wells within the time required or to prosecute such drilling as necessary for the purpose intended herein, any lease of such land executed under the provisions of this law shall be subject to forfeiture by the Commissioner of the General Land Office, and he shall forfeit same when he is suffi-

ciently informed of the facts which authorize a forfeiture, and shall, on the wrapper containing the papers relating to such lease, write and sign official words declaring such forfeiture, and the lease and all rights thereunder shall thereupon be forfeited together with all payments made thereunder. Notice of such action shall forthwith be mailed to the persons shown by the records of the General Land Office to be the owners of the surface and the owners of the forfeited lease at their last known addresses as shown by the records of said office. Upon proper showing by the owner of the forfeited lease within 30 days after the declaration of forfeiture, the lease may, at the discretion of the commissioner and upon the terms of this subchapter and such other terms as he may prescribe, be reinstated. If such lease be not reinstated within such time, or if the commissioner finds that any unleased land included in this law is being drained, the commissioner shall notify the person at his last known address, as shown by records of the General Land Office to be the surface owner, that the oil and gas is subject to sale or lease by the owner of the soil in accordance with this law, and that drilling is required. If such owner shall fail or refuse to obtain the commencement of such a well within 100 days after the date of such notice, the relinquishment herein granted and the rights acquired thereunder shall be subject to forfeiture by the commissioner by endorsing on the file wrapper containing the papers relating to the sale of the land, words indicating such forfeiture, and such rights shall thereupon be forfeited, and notice of such forfeiture shall be forwarded to the county clerk of the county wherein the land is situated. The rights of any owner of the soil which may have ipso facto terminated under prior laws shall be reinstated and are hereby reinstated, together with all rights acquired thereunder except where rights of third parties may have intervened. All rights herein reinstated shall be subject to the terms and provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2458, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.175. Lease of Oil and Gas After Forfeiture

When the relinquishment herein granted has been so forfeited by the commissioner, the land shall be subject to lease for oil and gas under the procedure provided by law for the leasing of unsold surveyed public school lands. No lease shall be executed which provides for a royalty of less than one-eighth, payable to the state for the benefit of the permanent free school fund, and the lessee shall in every case pay to the surface owner amounts equal to the bonus money and the delay rentals paid to the state, and in case of production such lessee shall pay to the surface owner amounts equal to one-half of all royalty above the reserved one-eighth. Upon the termination or expiration of a lease so executed by

the Commissioner of the General Land Office, or if no acceptable offer is received for such lease after due advertisement, the rights of the surface owner to act under this law shall be ipso facto reinstated.

[Acts 1977, 65th Leg., p. 2459, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.176. Forfeiture of Rights

If any person, firm, or corporation operating under this law shall fail or refuse to make the payment of any sum within 30 days after it becomes due, or if such one or an authorized agent should knowingly make any false return or false report concerning production or drilling, or if such one should fail to file reports in the manner required by law or fail to comply with General Land Office rules and regulations or refuse the proper authority access to the records pertaining to the operations, or if such one or an authorized agent should knowingly fail or refuse to give correct information to the proper authority, or knowingly fail or refuse to furnish the land office a correct log of any well, or if any lease is assigned and the assignment is not filed in the General Land Office as required by law, the rights acquired under the permit or lease shall be subject to forfeiture by the commissioner, and he shall forfeit same when sufficiently informed of the facts which authorize a forfeiture, and the oil and gas shall be subject to sale in the manner provided for the sale of other forfeited rights hereunder, except that the owner of the soil shall not thereby forfeit his interest in the oil and gas. Such forfeiture may be set aside and all rights theretofore existing shall be reinstated at any time before the rights of another intervene, upon satisfactory evidence of future compliance with the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2459, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.177. Rights of Subsequent Purchaser

If one acquires a valid right by permit or lease to the oil and gas in any unsold public free school or asylum land under any other law, a subsequent purchaser of such land shall not acquire any rights to any of the oil and gas that may be therein, but when the rights under such permit or lease terminate in the manner provided in the law under which they were obtained, then the owner of the soil shall become the owner of that portion of the oil and gas herein relinquished, and shall be thereafter subject to the provisions of this law. A forfeiture of the purchase of any survey or tract for any cause shall operate as a forfeiture of the minerals therein to the state. A relinquishment to the state of a lease producing oil or gas in paying quantities shall not operate to relinquish or convey to the owner of the

soil any interest whatever in the oil and gas that may be in the land included in said lease.

[Acts 1977, 65th Leg., p. 2459, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.178. Operation Under Permit

The owner of a permit or combination of permits shall have 18 months from the date or average date thereof in which to begin drilling a well for oil and gas on some portion of the land included therein. The drilling on one permit shall be sufficient protection against forfeiture of all the permits included in a combination. Owners of permits or combination of permits included herein shall have three years after the date or average date thereof in which to complete the development of oil and gas thereon, and if oil and gas should not be found in paying quantities and a lease applied for within said time all rights in such permit or combination of permits shall terminate, and the oil and gas in such land shall become subject to the provisions of this law relating to the relinquishment of oil and gas to the owner of the soil.

[Acts 1977, 65th Leg., p. 2460, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.179. Lease Under Permit

If oil or gas should be produced in paying quantities upon any land included in this law, the owner of the permit shall report the development to the commissioner within 30 days thereafter and apply for a lease upon such whole surveys or tracts in each permit as the owner or owners of a combination of permits may desire to be leased, and accompany the application with a log of the wells, and the correctness of the log shall be sworn to by the owner, manager, or driller, and thereupon a lease shall be issued without the payment of any additional sum of money and for a period not to exceed 10 years, subject to renewal or renewals.

[Acts 1977, 65th Leg., p. 2460, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.180. Payments Under Permit

The owner of a permit or combination of permits who desires to avail himself of the terms of this law, shall pay the state 10 cents per acre, annually in advance, for the second and third years, and shall likewise pay the owner of the soil 10 cents per acre for the first year of such permit, before availing himself of the privileges hereof, and a like sum thereafter annually in advance. A failure to make either of said payments shall subject the permit or permits to forfeiture by the commissioner, and when sufficiently informed of the facts which subject the permits to forfeiture, said commissioner shall forfeit the same by an endorsement of forfeiture upon the wrapper containing the papers relating to the permits and sign it officially. The pay-

ment of 10 cents per acre to the owner of the soil may be made to him or to the county clerk of the county in which the land is situated, and said clerk shall deposit such payment as he receives, in some bank at the county seat to the credit of the record owner of such land. If the owner of the soil refuses to accept such payment, said clerk shall withdraw such deposit and return it to the owner of the permit. The payment, or the tender of payment, shall be evidenced by the receipt of the owner or part owner or county clerk filed among the papers in the land office relating to such permits.

[Acts 1977, 65th Leg., p. 2460, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.181. Relinquishment Under Permit

The owner of a permit or combination of permits may relinquish to the state a permit or combination of permits or any whole survey or whole tract included in a permit at any time before obtaining a lease therefor by having such relinquishment recorded in the counties in which the land or part thereof is situated, and by filing it in the land office within 60 days after its execution, with a filing fee set by the commissioner in an amount not less than \$1.

[Acts 1977, 65th Leg., p. 2460, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 405, ch. 81, § 21(k), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 52.182. Damages to Soil

The payment of the 10 cents per acre and the obligation to pay the owner of the soil one-sixteenth of the production and the payment of same when produced and the acceptance of same by the owner, shall be in lieu of all damages to the soil.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.183. Effective Date of Lease

No mineral lease executed by the owner of the land or minerals under this subchapter is effective until a certified copy of the lease is filed in the land office.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.184. Statement of Consideration

No lease executed under this subchapter after September 17, 1939, is binding on the state unless it recites the actual and true consideration paid or promised.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.185. University Land

The provisions of this subchapter relating to a combination of permits and extension of time for beginning development and time for development applies to permits on university land.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.186. Lease of Oil and Gas When Owner of the Soil Unavailable

When the commissioner finds, upon the written request of any party interested in bargaining for an oil and gas lease, that the owner of the soil or of any undivided interest therein of any land subject to the terms of this subchapter is unavailable to act as the state's agent for oil and gas leasing purposes, or that his name, identity, or place of residence is unknown, such land or undivided interest therein shall be subject to lease for oil and gas under the procedure provided by Subchapter B of this Chapter 52¹ for the leasing of unsold surveyed public school lands.

An owner of the soil or of an undivided interest therein may be found to be unavailable by the commissioner if the written request for such finding is supported by a sworn affidavit detailing attempts to locate and contact such surface owner, which attempts satisfy the commissioner that reasonable diligence has been used in attempting to locate and contact such surface owner and by written certification from the tax assessor-collector of each taxing entity in which the land is located stating that ad valorem taxes owed to that entity have not been paid by the owner of the soil or an undivided interest therein or his representative for any year within the five years preceding the year in which the written request is submitted to the commissioner under this section. Notice of such finding shall forthwith be mailed to the person shown by the records of the tax assessor-collector in the county where the land is located to be the surface owner at his last known address as shown by the records of said office.

If the surface owner appears within 30 days after the date of such finding or prior to the execution of an oil and gas lease on his land pursuant to this section, his rights to act under this subchapter may, at the discretion of the commissioner and upon such terms as the commissioner may prescribe, be reinstated. If the owner of the soil or of any undivided interest therein appears within two years after the execution of such oil and gas lease on his land pursuant to this section, he shall be entitled to one-half of all royalties theretofore paid or thereafter to be paid under such oil and gas lease, reduced in the proportion which his interest bears to the whole and undivided surface estate, upon showing to the satisfaction of the commissioner that a rea-

sonably diligent search would have resulted in his being located.

Upon the termination or expiration of a lease for oil and gas executed pursuant to this section, or if no acceptable offer is received for such lease after due advertisement, the rights of the owner of the soil to act under this subchapter shall be ipso facto reinstated.

[Acts 1979, 66th Leg., p. 860, ch. 384, § 1, eff. June 6, 1979.]

¹ Section 52.011 et seq.

[Sections 52.187 to 52.220 reserved for expansion]

SUBCHAPTER G. PERMITS AND LEASES

§§ 52.221 to 52.252. Repealed by Acts 1983, 68th Leg., p. 1, ch. 1, § 1, eff. Feb. 1, 1983

[Sections 52.253 to 52.290 reserved for expansion]

SUBCHAPTER H. LEASE LIMITATIONS

§ 52.291. Coverage

The following persons, agencies, and entities are subject to the provisions of Sections 52.292 through 52.293 of this code:

- (1) the commissioner;
- (2) the board;
- (3) boards for lease of land owned by a department, board, or agency of the state created by Chapter 34 of this code;
- (4) the Board for Lease of University Lands;
- (5) the Board of Regents of Texas A & M University;
- (6) the Board of Regents of Texas Tech University;
- (7) the Board of Directors of Texas A & I University;
- (8) the Board of Regents, State Senior Colleges;
- (9) the Board of Regents of the University of Houston;
- (10) any other board of regents or other governing board of a state-supported institution of higher learning having authority to execute oil, gas, and mineral leases on land owned by the institution;
- (11) an owner of land or minerals in this state whose authority to lease the land or minerals as agent for the state arises in whole or in part from what is commonly known as the Relinquishment Act, codified in Subchapter F of this chapter;
- (12) the Board for Lease of State Park Lands;
- (13) the Board for Lease of the Texas Department of Corrections; and

(14) the commissioners court of any county in this state.

[Acts 1977, 65th Leg., p. 2466, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.292. Prohibited Leases

It is illegal for any person included in Section 52.291 of this code to execute an oil, gas, or mineral lease on land on which he is authorized by law to execute the lease unless the lease includes the terms provided in Section 52.293 of this code.

[Acts 1977, 65th Leg., p. 2467, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.293. Prerequisite to Sale Outside State

No natural gas or casinghead gas, including both associated and nonassociated gas, produced from the mineral estate subject to this lease may be sold or contracted for sale to any person for ultimate use outside the state unless the Railroad Commission of Texas, after notice and hearing as provided in Title 3 of this code, finds that:

(1) the person, agency, or entity that executed the lease in question does not require the natural gas or casinghead gas to meet its own existing needs for fuel;

(2) no private or public hospital, nursing home, or other similar health-care facility in this state requires the natural gas or casinghead gas to meet its existing needs for fuel;

(3) no public or private school in this state that provides elementary, secondary, or higher education requires the natural gas or casinghead gas to meet its existing needs for fuel;

(4) no facility of the state or of any county, municipality, or other political subdivision in this state requires the natural gas or casinghead gas to meet its existing needs for fuel;

(5) no producer of food and fiber requires the natural gas or casinghead gas necessary to meet the existing needs of irrigation pumps and other machinery directly related to this production; and

(6) no person who resides in this state and who relies on natural gas or casinghead gas to provide in whole or part his existing needs for fuel or raw material requires the natural gas or casinghead gas to meet those needs.

[Acts 1977, 65th Leg., p. 2467, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.294. Prerequisite to Filing Leases

The commissioner shall not receive and file an oil, gas, and mineral lease required to be filed by law unless the lease includes the terms and conditions provided in Section 52.293 of this code.

[Acts 1977, 65th Leg., p. 2467, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.295. Certain Leases Null, Void, and of No Force and Effect

An oil, gas, and mineral lease executed or received and filed in violation of the provisions of this subchapter is null, void, and of no force and effect.

[Acts 1977, 65th Leg., p. 2468, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.296. Granting Exceptions to Subchapter

After notice and hearing as provided in Title 3 of this code, the commission may grant exceptions to the provisions of this subchapter if it finds and determines that enforcement of the provisions of this subchapter:

(1) would cause physical waste as defined in Title 3 of this code; or

(2) would unreasonably deny to the lessee an opportunity to produce economically hydrocarbons from the land subject to the lease in question.

[Acts 1977, 65th Leg., p. 2468, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBCHAPTER I. GEOPHYSICAL AND GEO-CHEMICAL EXPLORATION PERMIT

§ 52.321. Definitions

In this subchapter:

(1) "Geophysical exploration" means a survey or investigation conducted to discover or locate oil and gas prospects using magnetic, gravity, seismic, and/or electrical techniques.

(2) "Geochemical exploration" means a survey or investigation conducted to discover or locate oil and gas prospects using techniques involving soil sampling and analysis.

(3) "Public school land" means land dedicated by the constitution or laws of this state to the permanent free school fund, but does not include land with a mineral classification under Subchapter F of this chapter¹ in which the state has retained the oil and gas interest, nor does it include areas within tidewater limits or the portion of the Gulf of Mexico that is under the jurisdiction of this state.

(4) "Permit" means a license issued by the commissioner authorizing geophysical and/or geochemical exploration on public school land.

(5) "Permittee" means the holder of a permit.

[Acts 1981, 67th Leg., p. 2451, ch. 631, § 1, eff. Sept. 1, 1981.]

¹ Section 52.171 et seq.

§ 52.322. Permit Required for Exploration

(a) Except for a person who has a valid oil and gas lease on public school land authorized by this chapter, a person may not conduct geophysical or

geochemical exploration on public school land unless the person obtains a permit from the commissioner.

(b) Every person who is authorized to conduct a geophysical or geochemical exploration on public school land shall comply with the commissioner's rules relating to such exploration.

(c) Nothing in this title shall prohibit the conduct of airborne geophysical exploration.

[Acts 1981, 67th Leg., p. 2452, ch. 631, § 1, eff. Sept. 1, 1981.]

§ 52.323. Application for Permit

(a) The person responsible for conducting a geophysical or geochemical exploration is the person who must apply for a permit.

(b) An application for a permit shall be made on a form prescribed by the commissioner and shall state the name and address of each person for whom the exploration is being conducted as well as any other information required by the commissioner.

[Acts 1981, 67th Leg., p. 2452, ch. 631, § 1, eff. Sept. 1, 1981.]

§ 52.324. Authority of Commissioner

(a) The commissioner:

(1) before issuing a permit, shall collect a fee from the applicant in an amount determined by the commissioner;

(2) may require a permittee to furnish to the commissioner, upon the commissioner's request, copies of maps, plats, reports, data, and any other information in the possession of the permittee that relates to the progress or results of an exploration under a permit; provided however, the commissioner shall not require a permittee to furnish any of its interpretive data;

(3) shall by rule require a permittee to restore land explored under the permit as nearly as is practicable to its condition immediately prior to the exploration; and

(4) may make any other rules relating to geophysical or geochemical explorations, permits, or permittees the commissioner considers appropriate.

(b) If a permittee violates a rule of the commissioner or a term of a permit, the commissioner may cancel the permit.

(c) If by authority of Subsection (a)(2) of this section the commissioner acquires information concerning a permittee's geophysical or geochemical exploration, the commissioner shall consider the information to be confidential and may not disclose it, except by authority of a court order, to the public or any other agency of this state.

[Acts 1981, 67th Leg., p. 2452, ch. 631, § 1, eff. Sept. 1, 1981.]

§ 52.325. Permittee's Failure to Comply

(a) If a permittee fails to restore land in accordance with Section 52.324(a)(3) of this code and the rules of the commissioner, the commissioner and any surface lessee may maintain an action against the permittee for actual damages to the land, or to the improvements, growing crops, or domesticated animals on the land that were caused by the geophysical or geochemical exploration.

(b) If a permittee violates this subchapter, the provisions of a permit issued by authority of this subchapter, or a rule of the commissioner, the permittee commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 nor more than \$1,000. Each day that a violation occurs is a separate offense.

[Acts 1981, 67th Leg., p. 2452, ch. 631, § 1, eff. Sept. 1, 1981.]

CHAPTER 53. MINERALS

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- 53.162. Permit Required for Exploration.
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SUBCHAPTER A. GENERAL PROVISIONS

§ 53.001. Definitions.

In this chapter:

- (1) "Commissioner" means the Commissioner of the General Land Office.
- (2) "Land office" means the General Land Office.

[Acts 1977, 65th Leg., p. 2469, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 53.002 to 53.010 reserved for expansion]

SUBCHAPTER B. PROSPECT AND LEASE ON STATE LAND

§ 53.011. Land Subject to Prospect

Any tract of land that belongs to the state, including islands, salt and freshwater lakes, bays, inlets, marshes, and reefs owned by the state within tide-water limits, the part of the Gulf of Mexico within the state's jurisdiction, unsold surveyed public school land, rivers and channels that belong to the state, and land sold with a reservation of minerals to the state are subject to prospect by any person for all minerals except:

- (1) oil and gas;
- (2) coal, lignite, sulphur, salt, and potash;
- (3) shell, sand, and gravel; and
- (4) fissionable minerals other than uranium and thorium on land sold with a reservation of minerals to the state.

[Acts 1977, 65th Leg., p. 2469, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.012. Application for Right to Prospect

(a) A person who desires to prospect land covered by this subchapter shall file an application with the commissioner designating the area to be prospected.

(b) Each area covered by an application may not be in excess of 640 acres with a 10 percent tolerance for tracts, sections, and surveys that include more than 640 acres.

(c) Each application shall be accompanied by a rental payment of not less than 25 cents an acre.

[Acts 1977, 65th Leg., p. 2469, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.013. Conditions of Permit

(a) The commissioner shall issue to the first applicant a permit to prospect the area designated in his application for a period of one year from the date his application is filed.

(b) The commissioner may extend the permit for a period of one year on payment of an annual rental of 25 cents an acre.

(c) No permit may be extended for a period of more than five consecutive years from the date of its issuance.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.014. Repealed by Acts 1983, 68th Leg., p. 5248, ch. 965, § 12, eff. June 19, 1983

Section 13 of the 1983 repealing act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 53.015. Application for Lease

(a) At any time during the term of the permit, the permittee may file an application to lease the area or a designated portion of the area covered by the permit for the purpose of mining or producing the minerals covered by the permit.

(b) The application shall be accompanied by the first lease payment of not less than \$2 an acre.

(c) If the area designated for lease in the application is less than the area covered by the permit, the applicant shall include with his application field notes prepared by the county surveyor or by a licensed state land surveyor describing the land designated.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.016. Issuance of Lease

(a) The lease shall be issued by the commissioner under the provisions of this subchapter and shall be for a primary term not to exceed 20 years and as long after that time as the minerals are produced in paying quantities.

(b) The commissioner may include in the lease any other provision he considers necessary for protection of the interests of the state.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5248, ch. 965, § 11, eff. June 19, 1983.]

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 53.017. Annual Lease Payment

The annual lease payment after the first year and during the primary term of the lease shall not be less than \$1 an acre, which is payable unless production in paying quantities is obtained and royalty is being paid to the state.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.018. Royalty

The royalty under the lease shall not be less than one-sixteenth of the value of the minerals produced under the lease.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.019. Payments

Lease payments and royalty shall be paid to the commissioner at Austin, and all payments shall be credited to the account of the permanent school fund.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.020. Assignment of Lease

(a) A lease may be assigned in quantities of not less than 40 acres, but if there are fewer than 40 acres remaining in the tract originally leased, the lesser area may be assigned.

(b) The assignment shall be recorded in the county in which the land is located, and within 90 days after it is recorded a certified copy of the assignment, certified by the county clerk from his records, shall be sent to the land office, together with a filing fee set by the commissioner in an amount not less than \$1 for each tract affected.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 405, ch. 81, § 21(l), eff. Sept. 1, 1983.]

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 53.021. Forfeiture of Lease

(a) A lease is subject to forfeiture by act of the commissioner if:

(1) the lessee fails or refuses to pay any amount which is due either as a lease payment or royalty;

(2) the lessee or his authorized agent knowingly makes any false return or false report concerning the lease;

(3) the lessee or his agent refuses the commissioner or his authorized representative access to the records or other data relating to operations under the lease; or

(4) a material term of the lease is violated.

(b) Any area forfeited under this section is subject to application for a permit under the same terms as the original application.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.022. Effect of Subchapter

None of the provisions of this subchapter shall apply to, alter, or affect any rights existing on June 22, 1955, under a valid permit issued by the commissioner under the provisions of Section 12, Chapter 271, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 5421c, Vernon's Texas Civil Statutes), but if the permittee desires that his lease continue as long as production is obtained in paying quantities, he shall pay lease payments and royalty provided in this subchapter.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 53.023 to 53.060 reserved for expansion]

SUBCHAPTER C. LEASE OF COAL, LIGNITE, SULPHUR, POTASH, URANIUM, AND THORIUM

§ 53.061. Authority to Lease Certain Minerals

(a) The state constitutes the owner of the surface its agent to lease to any person the coal, lignite, sulphur, potash, uranium, thorium, and any minerals produced in conjunction with these which may be within all or part of a survey previously sold with all minerals reserved to the state.

(b) The lease shall be made on terms and conditions that may be prescribed by the school land board.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.062. Lease of Minerals Separately and Together

Minerals covered by the provisions of this subchapter may be leased either separately or together.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.063. Forms

The owner of the surface may lease to any person the minerals covered by this subchapter on lease forms prepared by the land office.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.064. Prerequisites for Effectiveness of Lease

(a) No lease executed by the owner of the surface is binding on the state unless it recites the actual consideration paid or promised for the lease.

(b) No lease is effective until a certified copy is filed in the land office and the bonus accruing to the state is paid to the commissioner. The commissioner is entitled to reject for filing any lease submitted to him that he feels is not in the best interest of the state.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.065. Payments Under Lease

(a) Under a lease executed under this subchapter, the lessee shall pay to the state 60 percent of all bonuses agreed to be paid for the lease and 60 percent of all rentals and royalties that are payable under the lease.

(b) The lessee shall pay to the owner of the surface 40 percent of all bonuses agreed to be paid for the lease and 40 percent of all rentals and royalties payable under the lease.

(c) If production is obtained, the state shall receive not less than one-sixteenth of the value of the minerals produced.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.066. Damages to Surface

Payments made by the lessee to the owner of the surface as provided in this subchapter and acceptance of the payments by the owner of the surface are in place of all damages to the soil.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.067. Payment Procedure

Royalties and other payments accruing to the state under this subchapter shall be paid to the commissioner in Austin and shall be deposited in the fund to which the minerals belong.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.068. Production Report and Records

(a) Each payment shall be accompanied by an affidavit of the lessee or his authorized agent indicating:

(1) the amount of minerals produced and marketed during the month;

(2) the person to whom the minerals were sold; and

(3) the selling price for the minerals as shown by copies of the smelter, mint, mill, refinery, or other returns or documents attached to the affidavit.

(b) Books, accounts, weights, wage contracts, correspondence, and other documents or papers relating to production under this subchapter are open at all times to inspection by the commissioner or his authorized representatives.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.069. Forfeiture of Lease

(a) A lease and all rights under a lease are subject to forfeiture by action of the commissioner if the lessee or his assignee, sublessee, receiver, or other agent in control of the lease:

(1) fails or refuses to pay any royalty within 30 days after it becomes due;

(2) fails or refuses to the proper authorities access to the records relating to the operations; or

(3) knowingly fails or refuses to give correct information to the proper authorities.

(b) The commissioner may declare the forfeiture when he is sufficiently informed of the facts that authorize the forfeiture. He shall write on the wrapper containing the papers relating to the lease words declaring the forfeiture and shall sign it officially. Then the lease and all rights under the lease together with payments made under it are forfeited.

(c) Notice of the forfeiture shall be mailed to the person shown by the records of the land office to be the owner of the surface and the owner of the forfeited lease at their last known addresses as shown in the land office records.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.070. Reinstatement of Lease

(a) If the owner of the forfeited lease complies with the provisions of this subchapter within 30 days after the declaration of forfeiture, the commissioner may reinstate the lease under the terms of this subchapter and other terms that he may prescribe.

(b) If the lease is not reinstated within the 30-day period, the owner of the surface, as agent of the state, is entitled to lease the minerals.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.071. Lien

The state has a first lien on all minerals produced from any lease to secure the payment of unpaid royalty or other amounts that are due under this subchapter.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.072. Effect of Certain Laws

Any rights acquired under Articles 5388 through 5403, Revised Civil Statutes of Texas, 1925, before March 15, 1967, are not affected by the repeal of those articles, and the rights, powers, duties, and obligations conferred or imposed by those articles are governed by those repealed articles.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.073. Certain Minerals and Laws Exempt From Subchapter

The provisions of this subchapter do not apply to or affect oil and gas and do not affect the provisions of Subchapter F, Chapter 52 of this code or Subchapter B of this chapter.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 53.074 to 53.110 reserved for expansion]

**SUBCHAPTER D. UNITIZATION OF
SULPHUR PRODUCTION**

§ 53.111. Authority to Operate an Area as a Unit for Production of Sulphur

Subject to the provisions of this subchapter, the commissioner, on behalf of the state or any of its funds, may execute agreements that provide for the operation of areas as a unit for the exploration, development, and production of sulphur and may commit to the agreements the royalty interests in sulphur reserved to or provided for the state or any fund of the state, in or in connection with any patent, award, mining claim, or contract of sale or under any lease made by an official, board, agent, agency, or authority of the state.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.112. Approval of Certain Agreements by School Land Board

An agreement authorized by Section 53.111 of this code that commits royalty interests in land dedicated to the permanent free school fund and the asylum funds, in riverbeds, inland lakes, channels, and areas within tidewater limits including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea must be approved by the school land board and must be executed by the owners of the surface

if the agreements cover land leased for sulphur under Subchapter C of this chapter.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.113. Approval of Other Agreements

Agreements that commit the royalty interest in land that is not covered by Section 53.112 of this code must be approved by the board, official, agent, agency, or authority of the state which has the authority to lease or to approve a lease of the land or area for sulphur.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.114. Commissioner's Approval

An agreement authorized by Section 53.111 of this code must be found by the commissioner to be in the best interest of the state.

[Acts 1977, 65th Leg., p. 2474, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.115. Provisions of Agreement

(a) An agreement executed under this subchapter may include the following provisions:

(1) that operations incident to the drilling of a well on any portion of the unit are considered for all purposes to be the conduct of the operations on each tract in the unit;

(2) that the production allocated by the agreement to each tract included in the unit shall be considered for all purposes after production to be produced from the tract;

(3) that the royalty interest reserved to or provided for the state or any of its funds on production from any tract included in the unit shall be paid only on that portion of the production from the unit which is allocated to the tract under the agreement; and

(4) that each lease included in the unit shall remain in effect so long as the agreement remains in effect and that on termination of the agreement each lease shall continue in effect under the terms and provisions of the lease.

(b) The agreement may include any other terms, conditions, and provisions the commissioner or any board, official, agent, agency, or authority of the state that has the authority to lease or to approve a lease of the land or area for sulphur may consider to be in the best interest of the state.

[Acts 1977, 65th Leg., p. 2474, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.116. Application to University Land

None of the provisions of this subchapter apply to any land under the control and management of the

Board of Regents of The University of Texas System.

[Acts 1977, 65th Leg., p. 2474, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.117. Construction of Subchapter

(a) Agreements and operations under this subchapter are necessary to prevent waste and conserve the natural resources of the state and are not a violation of the provisions of Chapter 15, Business & Commerce Code, as amended.

(b) If a court finds a conflict between the provisions of this subchapter and the code cited in the previous subsection, this subchapter is intended as a reasonable exception to those laws which is necessary to prevent waste and conserve the natural resources.

(c) If a court finds that a conflict exists between this subchapter and the laws cited in Subsection (a) of this section and that this subchapter is not a reasonable exception to those laws, it is the intent of the legislature that this subchapter or any conflicting portion of this subchapter be declared invalid and that the previously cited laws remain valid.

[Acts 1977, 65th Leg., p. 2474, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBCHAPTER E. LEASE OF PUBLIC SCHOOL AND GULF LAND FOR COAL, LIGNITE, SULPHUR, SALT, AND POTASH

§ 53.151. Lease of Certain Areas

Under the provisions of this subchapter, the board may lease to any person for the production of coal, lignite, sulphur, salt, and potash:

- (1) islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits;
- (2) the portion of the Gulf of Mexico within the jurisdiction of the state;
- (3) rivers and channels that belong to the state;
- (4) all unsold surveyed and unsurveyed public school land; and
- (5) all land sold with a reservation of minerals to the state under Section 51.054 of this code in which the state has retained leasing rights.

[Acts 1979, 66th Leg., p. 49, ch. 29, § 1, eff. April 3, 1979. Amended by Acts 1983, 68th Leg., p. 5245, ch. 965, § 7, eff. June 19, 1983.]

Section 13 of the 1983 amendatory act provides:

"This Act applies to land sold by the state on or after September 1, 1983. The sale of state land before that date is governed by the appropriate law in existence on the date of the sale."

§ 53.152. Laws Applicable to Leases

(a) Leases of land described by Section 53.151 of this code shall be made in the same manner as

leases of that land for oil and gas under Chapter 52 of this code.

(b) Sections 52.034 and 52.086 of this code do not apply to leases of coal, lignite, sulphur, salt, and potash under this subchapter.

[Acts 1979, 66th Leg., p. 49, ch. 29, § 1, eff. April 3, 1979.]

§ 53.153. Conditions of Lease

Coal, lignite, sulphur, salt, and potash may be leased together or separately.

[Acts 1979, 66th Leg., p. 49, ch. 29, § 1, eff. April 3, 1979.]

§ 53.154. Royalty and Delay Rentals

(a) In addition to the cash amount bid for a lease, the board shall lease the area for not less than one-eighth of the gross production of sulphur or the value of the sulphur that may be produced or that may be produced and sold off the area and not less than one-sixteenth of the value of the coal, lignite, salt, and potash that may be produced plus an amount determined by the board until production is secured.

(b) If production is secured in commercial quantities and the payment of royalty begins and continues to be paid, the lessee is exempt from further delay rental payments on the acreage.

(c) If production ceases and royalty is not paid, the lessee shall pay at the end of the lease year in which the royalty ceased to be paid and annually after that time in advance, in an amount determined by the board as long as the lessee desires to maintain the rights acquired under the lease, but not for more than five years from the date of the lease.

[Acts 1979, 66th Leg., p. 49, ch. 29, § 1, eff. April 3, 1979.]

SUBCHAPTER F. GEOPHYSICAL AND GEO-CHEMICAL EXPLORATION PERMIT

§ 53.161. Definitions

In this subchapter:

(1) "Mineral(s)" means coal, lignite, sulphur, salt, and potash.

(2) "Geophysical exploration" means a survey or investigation conducted to discover or locate mineral prospects using magnetic, gravity, seismic, and/or electrical techniques.

(3) "Geochemical exploration" means a survey or investigation conducted to discover or locate mineral prospects using techniques involving soil sampling and analysis.

(4) "Public school land" means land dedicated by the constitution or laws of this state to the permanent free school fund, but does not include land with a mineral classification described in Section 53.061 of this chapter in which the state has retained the minerals, nor does it include areas within tidewater limits or the portion of the

Gulf of Mexico that is under the jurisdiction of this state.

(5) "Permit" means a license issued by the commissioner authorizing geophysical and/or geochemical exploration on public school land.

(6) "Permittee" means the holder of a permit.

[Acts 1981, 67th Leg., p. 2453, ch. 631, § 2, eff. Sept. 1, 1981.]

§ 53.162. Permit Required for Exploration

(a) Except for a person who has a valid mineral lease on public school land authorized by this chapter, a person may not conduct geophysical or geochemical exploration on public school land unless the person obtains a permit from the commissioner.

(b) Every person who is authorized to conduct a geophysical or chemical exploration on public school land shall comply with the commissioner's rules relating to such exploration.

[Acts 1981, 67th Leg., p. 2453, ch. 631, § 2, eff. Sept. 1, 1981.]

§ 53.163. Laws Applicable to Permits

Permits for geophysical and geochemical exploration under this subchapter shall be issued in the same manner as permits for oil and gas under Subchapter I of Chapter 52 of this code.¹

[Acts 1981, 67th Leg., p. 2453, ch. 631, § 2, eff. Sept. 1, 1981.]

¹ Section 52.321 et seq.

SUBTITLE E. BEACHES AND DUNES

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SUBCHAPTER A. GENERAL PROVISIONS

§ 61.001. Definitions

In this chapter:

- (1) "Department" means the Parks and Wildlife Department.
- (2) "Line of vegetation" means the extreme seaward boundary of natural vegetation which spreads continuously inland.
- (3) "Highest wave" means the highest swell of the surf with such regularity that vegetation cannot grow and does not refer to the extraordinary waves which temporarily extend above the line of vegetation during storms and hurricanes.
- (4) "Littoral owner" means the owner of land adjacent to the shore and includes anyone acting under the littoral owner's authority.
- (5) "Public beach" means any beach area, whether publicly or privately owned, extending inland from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico to which the public has acquired the right of use or easement to or over the area by prescription, dedication, presumption, or has retained a right by virtue of continuous right in the public since time immemorial, as recognized in law and custom.

[Acts 1977, 65th Leg., p. 2477, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.002 to 61.010 reserved for expansion]

SUBCHAPTER B. ACCESS TO PUBLIC
BEACHES

§ 61.011. Public Policy

It is declared and affirmed to be the public policy of this state that the public, individually and collectively, shall have the free and unrestricted right of ingress and egress to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico, or if the public has acquired a right of use or easement to or over an area by prescription, dedication, or has retained a right by virtue of continuous right in the public, the public shall have the free and unrestricted right of ingress and egress to the larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico.

[Acts 1977, 65th Leg., p. 2477, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.012. Definition

In this subchapter, "beach" means state-owned beaches to which the public has the right of ingress and egress bordering on the seaward shore of the Gulf of Mexico or any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

[Acts 1977, 65th Leg., p. 2477, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.013. Prohibition of Obstructions

(a) It is an offense against the public policy of this state for any person to create, erect, or construct any obstruction, barrier, or restraint that will interfere with the free and unrestricted right of the public, individually and collectively:

- (1) to enter or to leave any public beach; or
- (2) to use lawfully and legally any public beach or any larger area abutting on or contiguous to a public beach if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

(b) For purposes of this section, "public beach" shall mean any beach bordering on the Gulf of Mexico which extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial as recognized by law or custom. This definition does not include a beach

which is not accessible by a public road or public ferry.

(c) A person who creates, erects, or constructs an obstruction, barrier, or restraint in violation of Subsection (a) of this section is liable to the state for a civil penalty of not less than \$50 nor more than \$1,000.

(d) This section does not apply to any obstruction, barrier, or restraint placed on an area defined in Subsection (a) of this section by a county under Chapter 63 of this code for the purpose of establishing or reestablishing sand dunes.

[Acts 1977, 65th Leg., p. 2478, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1607, ch. 681, § 2, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 4818, ch. 850, § 1, eff. June 19, 1983.]

§ 61.014. Denial of Access by Posting

(a) As used in this section, "public beach" means the area extending from the line of mean low tide of the Gulf of Mexico to the line of vegetation bordering on the Gulf of Mexico, or to a line 200 feet inland from the line of mean low tide, whichever is nearer the line of mean low tide, if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

(b) Any person who displays or causes to be displayed on any public beach any sign, marker, or warning, or who shall make or have made any written or oral communication which states that the public beach is private property or who states in any other manner that the public does not have the right of access to the public beach in violation of the lawful access rights of the public guaranteed by this subchapter is liable to the state for a civil penalty of not less than \$50 nor more than \$1,000.

(c) Each day that the communication is made constitutes a separate offense.

(d) Any person who violates the provisions of this section shall be prosecuted in the county in which the public beach is located.

(e) This section does not apply to any island or peninsula that is not accessible by public road or common carrier ferry facility so long as the condition exists.

[Acts 1977, 65th Leg., p. 2478, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1607, ch. 681, § 1, eff. Aug. 27, 1979.]

§ 61.015. Satisfaction of Ingress and Egress Requirement

The requirement of free and unrestricted right of ingress and egress over an area landward of the line of vegetation is considered fully satisfied by access roads or ways which are in existence now and available to the public or which by or with the

approval of any governmental authority having jurisdiction may be provided in the future.

[Acts 1977, 65th Leg., p. 2478, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.016. Boundaries for Areas With No Marked Vegetation Line

(a) To determine the elevation reached by the highest waves of the Gulf of Mexico, in any area in which there is no clearly marked vegetation line (for instance, a line immediately behind well-defined dunes or mounds of sand and at a point where vegetation begins) recourse shall be to the nearest clearly marked line of vegetation on each side of the unmarked area.

(b) The "line of vegetation" for the unmarked area shall be the line of constant elevation connecting the two clearly marked lines of vegetation on each side.

(c) If the elevation of the two points on each side of the area are not the same, the extension defining the line reached by the highest waves of the Gulf shall be the average elevation as between the two points, but if there is no clearly marked line of vegetation, the extended line shall not extend inland further than 200 feet from the seaward line of mean low tide.

[Acts 1977, 65th Leg., p. 2478, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.017. Line of Vegetation Unaffected by Certain Conditions

(a) The "line of vegetation" is not affected by the occasional sprigs of salt grass on mounds and dunes or seaward from them and by artificial fill, the addition or removal of turf, or by other artificial changes in the natural vegetation of the area.

(b) If the changes listed in Subsection (a) of this section are made and the vegetation line is obliterated or is created artificially, the line of vegetation shall be determined in the same manner as in those areas covered by Section 61.016 of this code, but if there is a vegetation line consistently following a line more than 200 feet from the seaward line of mean low tide, the 200-foot line shall constitute the landward boundary of the area subject to public easement until a final court adjudication establishes the line in another place.

[Acts 1977, 65th Leg., p. 2479, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.018. Suit to Remove Obstructions

(a) The attorney general or any county attorney, district attorney, or criminal district attorney shall file in a district court of Travis County, or in the county in which the property is located, a suit to obtain either a temporary or permanent court order or injunction to remove any obstruction or barrier

or to prohibit any restraint or interference which restricts the right of the public, individually or collectively, to free and unrestricted ingress and egress to and from any area described in Section 61.012 of this code or any property abutting on or contiguous to the state-owned beach on which the public has acquired a prescriptive right.

(b) In the same suit, the attorney general, county attorney, district attorney, or criminal district attorney may seek recovery of the costs of removing any obstruction or barrier if it is removed by public authorities pursuant to an order of the court.

[Acts 1977, 65th Leg., p. 2479, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.019. Declaratory Judgment Suits

(a) A littoral owner whose rights are determined or affected by this subchapter may bring suit for a declaratory judgment against the state to try the issue or issues.

(b) Service of citation on the state shall be made by serving the citation on the attorney general.

[Acts 1977, 65th Leg., p. 2479, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.020. Prima Facie Evidence

In a suit brought or defended under this subchapter or whose determination is affected by this subchapter, a showing that the area in question is located in the area from mean low tide to the line of vegetation is prima facie evidence that:

- (1) the title of the littoral owner does not include the right to prevent the public from using the area for ingress and egress to the sea; and
- (2) there is imposed on the area, subject to proof of easement, a prescriptive right or easement in favor of the public for ingress and egress to the sea.

[Acts 1977, 65th Leg., p. 2479, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.021. Area Not Covered by Subchapter

None of the provisions of this subchapter apply to beaches on islands or peninsulas that are not accessible by a public road or ferry facility for as long as the condition exists.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.022. Exemption for Certain Structures

The provisions of this subchapter do not prevent any agency, department, institution, subdivision, or instrumentality of this state or of the federal government from erecting or maintaining any groin, seawall, barrier, pass, channel, jetty, or other structure as an aid to navigation, protection of the shore, fishing, safety, or other lawful purpose authorized

by the constitution or laws of this state or the United States.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.023. Effect on Land Titles and Property Adjacent to and on Beaches

The provisions of this subchapter shall not be construed as affecting in any way the title of the owners of land adjacent to any state-owned beach bordering on the seaward shore of the Gulf of Mexico or to the continuation of fences for the retention of livestock across sections of beach which are not accessible to motor vehicle traffic by public road or by beach.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.024. Effect of Subchapter on Definition of Public Beach

None of the provisions of this subchapter shall reduce, limit, construct, or vitiate the definition of public beaches which has been defined from time immemorial in law and custom.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.025 to 61.060 reserved for expansion]

SUBCHAPTER C. MAINTENANCE OF THE PUBLIC BEACHES

§ 61.061. Purpose

It is the purpose of this subchapter to allocate responsibility for cleaning the beaches of this state and to preserve and protect local initiative in the maintenance and administration of beaches.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.062. Public Policy

It is the public policy of this state that the public, individually and collectively, shall have the free and unrestricted right of ingress and egress to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico if the public has acquired a right of use or easement to or over the area by prescription, dedication, or continuous use. This creates a responsibility for the state, in its position as trustee for the public to assist local governments in the cleaning of beach areas which are subject to the access rights of the public as defined in Subchapter B of this chapter.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.063. Definition

In this subchapter, "clean and maintain" means the collection and removal of litter and debris and

the supervision and elimination of sanitary and safety conditions that would pose a threat to personal health or safety if not removed or otherwise corrected and includes the employment of lifeguards, beach patrols, and litter patrols.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.064. Application of Subchapter

This subchapter applies to incorporated cities, towns, and villages that are located or border on the Gulf of Mexico and to all counties that are located or border on the Gulf of Mexico if the city, town, or village or county that makes application for funds under this subchapter has within its boundaries public beaches.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 366, ch. 163, § 1, eff. Aug. 27, 1979.]

§ 61.065. Duty of Cities

(a) It is the duty and responsibility of the governing body of any incorporated city, town, or village located or bordering on the Gulf of Mexico to clean and maintain the condition of all public beaches within the corporate boundaries.

(b) The duty to clean and maintain the condition of public beaches does not extend to any public beach within the corporate boundaries that is owned by the county in which it is located.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.066. Duty of County

It is the duty and responsibility of the commissioners court of any county located or bordering on the Gulf of Mexico to clean and maintain the condition of all public beaches located inside the county but outside the boundaries of any incorporated city located or bordering on the Gulf of Mexico and all public beaches owned by the county and located inside the boundaries of an incorporated city, town, or village.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.067. Duty of State

It is the duty and responsibility of the state to clean and maintain the condition of all public beaches located within state parks designated by the department.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.068. Application Requirement

A city or county that seeks state funds under this subchapter to clean the public beaches must submit an application to the department.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.069. Contents of Application

To be approved, the application must provide:

(1) for the administration or supervision of the public beaches of the city or county by a beach park board of trustees, county parks board, commissioners court, or other administrative body that the legislature may from time to time authorize, and provide that the board or agency will have adequate authority to administer an effective program of keeping clear the public beaches within its jurisdiction;

(2) for the receipt by the city or county treasurer or other officer exercising similar functions, if there is no city or county treasurer, of all funds paid to the city or county under this subchapter and provide for the proper safeguarding of the funds by the officer, provide that the funds will be spent solely for the purposes for which they are paid, and provide for the repayment by the city or county of any funds lost or diverted from the purposes for which paid;

(3) that the governing body of the city or county will make reports as to amounts and categories of expenditures that the department may from time to time require;

(4) that entrance to all public beaches under the jurisdiction of the governing body of the city or county is free of charge; and

(5) for the establishment, maintenance, and administration of at least one beach park by the city or county which meets the minimum requirements of size and facilities available to the public as determined by the department.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.070. Parking and Use Fees

Subsection (4), Section 61.069 of this code shall not be construed to prohibit the assessment of a reasonable fee for off-beach parking or for the use of facilities provided for the use and convenience of the public.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.071. Compliance Before Approval

The department shall not approve any application that fails to meet the conditions specified in Section 61.069 of this code.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.072. State Funds

The department shall pay to each city or county that has an application approved under Sections 61.068 through 61.070 of this code from appropriations that are made available the state share for cleaning and maintenance of public beaches.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.073. Conditions for Payments

No payments shall be made under this section until the department finds that:

(1) there will be available in the budget of the city or county not less than \$20,000 to clean and maintain public beaches within its jurisdiction for the state fiscal year for which reimbursement is sought; and

(2) there will be available in the budget of the city or county for the purpose of cleaning and maintaining the public beaches within its jurisdiction for the state fiscal year for which reimbursement is sought an amount not less than the total amount spent by the city or county to clean the beaches in the state fiscal year ending August 31, 1969.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.074. Submission of Proposed Expenditures

A city or county that seeks reimbursement under the provisions of this subchapter shall submit to the department proposed expenditures for cleaning and maintaining the public beaches.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.075. Fair Distribution of Funds

The department shall distribute the state share to the cities and counties in a fair and impartial manner and under procedures and accounting methods to be adopted by the department.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.076. Limitation on State Share

(a) No city or county may receive as its state share an amount that is greater than two-thirds of the amount the city or county spends for the purpose of cleaning and maintaining public beaches within its jurisdiction during the state fiscal year for which reimbursement is sought.

(b) The department shall allocate the state share to eligible cities and counties taking into account the frequency with which public beaches within the jurisdiction of the cities and counties are used.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.077. Funds for Administrative Purposes and Emergencies

(a) The department may use for administrative purposes not more than 10 percent of the appropriated funds for any state fiscal year.

(b) The department may withhold a portion of the appropriated funds to maintain a reserve emergency fund to be used for cleaning beaches in the event of a catastrophe, such as an oil spill, an influx of seaweed, or other major interference with public recreational use of public beaches.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.078. Authority to Spend County Funds

The commissioners court of any county located or bordering on the Gulf of Mexico may spend from any available fund the amount it considers necessary to carry out the responsibilities provided in this subchapter.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.079. Notice of Ineligibility

After reasonable notice and opportunity for a hearing to a city or county that is receiving funds under the provisions of this subchapter, if the department finds that the city or county no longer complies with the requirements of this subchapter, it shall notify the city or county that further payments will not be made until the department is satisfied that there is no longer any failure to comply.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.080. Public Beaches in Ineligible City

(a) The governing body of any incorporated city located or bordering on the Gulf of Mexico that is not entitled to receive funds under this subchapter may contract with the commissioners court of the county in which the city is located to allow the county to clean the beaches within the corporate limits of the city.

(b) The city may apply to the department for rebates of 40 percent of the contract price, and the city is not required to meet the terms and conditions imposed in Section 61.069 of this code unless otherwise provided by law.

(c) The department shall make the rebates at the close of each fiscal year on a showing by the city that entrance to all public beaches under the jurisdiction of the city is free of charge.

(d) This section shall not be construed to prohibit the assessment of a reasonable fee for off-beach

parking or the use of facilities provided for the use and convenience of the public.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.081. Public Beaches in Ineligible County

(a) The commissioners court of a county that is not entitled to receive funds under this subchapter may contract with the commissioners court of any adjacent county that is entitled to receive funds under this subchapter to allow the adjacent county to clean the public beaches of the ineligible county.

(b) The contracting county that is not entitled to receive funds under this subchapter may apply to the department for rebates of 40 percent of the contract price, but the ineligible county is not required to meet the terms and conditions imposed in Section 61.069 of this code.

(c) The department shall make the rebates at the close of each state fiscal year on a showing by the ineligible county that entrance to all public beaches under the jurisdiction of the county is free of charge.

(d) This section shall not be construed to prohibit the assessment of a reasonable fee for off-beach parking or for the use of facilities provided for the use and convenience of the public.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.082. Authority of Local Governments

(a) The provisions of this subchapter shall not be construed to interfere with local initiative and responsibility in the cleaning, maintenance, and supervision of public beaches.

(b) The administration of public beaches, the selection of personnel, and the determination of the best uses of the funds insofar as is consistent with the purposes of this subchapter are reserved to the several political subdivisions receiving funds under this subchapter.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.083. Exemptions From Subchapter

None of the provisions of this subchapter apply to any beach area that does not border on the Gulf of Mexico or to any island or peninsula that is not accessible by a public road or common carrier ferry facility as long as that condition exists.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.084 to 61.120 reserved for expansion]

SUBCHAPTER D. REGULATION OF TRAFFIC AND LITTER

§ 61.121. Definition

In this subchapter, "beach" shall have the same definition as provided in Section 61.012 of this code.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.122. Regulation of Traffic, Prohibition of Litter, Possession of Animals on Beaches, and Swimming in Passes to and from the Gulf of Mexico

(a) The commissioners court of a county bordering on the Gulf of Mexico or its tidewater limits, by order, may regulate motor vehicle traffic on any beach within the boundaries of the county and may prohibit the littering of the beach and may define the term "littering."

(b) The commissioners court of a county bordering the Gulf of Mexico or its tidewaters, by order, may regulate the possession of animals on the beach within its boundaries, including but not limited to prohibiting animals to run at large on said beach.

(c) The commissioners court of a county bordering the Gulf of Mexico or its tidewaters, by order, may regulate swimming in passes leading to and from the Gulf of Mexico, located within its boundaries, including but not limited to prohibiting swimming in said passes and posting signs notifying persons of such regulation or prohibition.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 775, ch. 341, § 1, eff. Aug. 27, 1979.]

§ 61.123. Notice of Hearing

(a) Before the commissioners court adopts an order under Section 61.122 of this code, it must publish notice of the intention to adopt the order in at least one newspaper with general circulation in the county.

(b) The notice shall state the time and place of the public hearing on the proposed order and that interested persons may obtain copies of the proposed order from the commissioners court.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.124. Copies of Order

The commissioners court shall make copies of the proposed order available to interested persons.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.125. **Public Hearing**

(a) Not less than one month but more than two weeks after notice is published, the commissioners court shall conduct a hearing at the time and place stated in the notice.

(b) At the hearing, the commissioners shall allow all interested persons to express their views on the proposed order.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.126. **Traffic Regulations**

If the order includes a traffic regulation, the order shall provide for signs that are designed and posted in compliance with the current provisions of the Texas Manual on Traffic Control Devices for Streets and Highways, stating the applicable speed limit, parking requirement, or that vehicles are prohibited.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.127. **Criminal Penalties**

In any order adopted under this subchapter, the commissioners court may adopt the following criminal penalties for violation of the order:

- (1) for a first conviction, a fine of not more than \$50;
- (2) for a second conviction, a fine of not more than \$200;
- (3) for any subsequent convictions after the second conviction, a fine of not more than \$500 or confinement in the county jail for not more than 60 days, or both.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.128. **Order Prevails Over State Law**

If an order adopted under this subchapter conflicts with the general law of the state, the order shall control over the state law, and in cases of violation, prosecution may be maintained only under the order.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.129. **Ordinance Prevails Over Order and State Law**

(a) This subchapter does not limit the power of an incorporated city, town, or village bordering on the Gulf of Mexico or any adjacent body of water to regulate motor vehicle traffic and prohibit littering on any beach within its corporate limits.

(b) If these regulatory ordinances are adopted by a city, town, or village and the ordinance conflicts with the general law of the state or with an order of the commissioners court adopted under this sub-

chapter, the ordinance shall control over the state law and the order, and in cases of violation, prosecution may be maintained only under the ordinance.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.130. **Rights of the Public**

The right of the public to use the public beaches defined in this subchapter is inviolate and is subject only to orders adopted by a commissioners court under this subchapter and to ordinances enacted by an incorporated city, town, or village.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.131. **Effect of Subchapter on Definition of Public Beach**

None of the provisions of this subchapter shall reduce, limit, construct, or vitiate the definition of public beaches which has been defined from time immemorial in law and custom.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.132 to 61.160 reserved for expansion]

SUBCHAPTER E. LICENSES FOR BUSINESS ESTABLISHMENTS

§ 61.161. **Public Policy**

It is the public policy of this state that the state-owned beaches bordering on the seaward shore of the Gulf of Mexico, and any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico, if the public has acquired a right of use or easement to or over the area by the prescription or dedication or has retained a right by virtue of continuous right in the public, shall be used primarily for recreational purposes, and any use which substantially interferes with the enjoyment of the beach area by the public shall constitute an offense against the public policy of the state. Nothing in this subchapter prevents any agency, department, political subdivision, or municipal corporation of this state from exercising its lawful authority under any law of this state to regulate safety conditions on any beach area subject to public use.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.162. **Findings**

(a) The legislature finds that the operation and maintenance of business establishments at fixed or permanent locations on the public beaches of this state bordering on the seaward shore of the Gulf of Mexico constitute a potential public health hazard and a substantial interference with the free and unrestricted rights of ingress and egress of the

public, both individually and collectively, to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico or any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

(b) The legislature finds that a reasonable number of mobile business establishments which traverse the public beach while doing business are beneficial to the public interest and do not interfere with the free and unrestricted rights of ingress and egress of the public as provided in this subchapter.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.163. Definition

In this subchapter, "business establishment" means any structure or vehicle where any commodity including memberships in any private club or other similar organization is offered to the public for sale or lease but does not include any structure or vehicle where only services are offered to the public for sale.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.164. Application

A person who desires to operate a mobile business establishment on a public beach located outside the municipal limits of an incorporated city shall submit a written application to the department.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.165. Contents of Application

The application shall include:

- (1) the name and street address of the applicant;
- (2) the commodity to be sold or leased; and
- (3) the limits of the territory within which the mobile business establishment will operate.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.166. Filing Fee

(a) The application shall be accompanied by a filing fee in an amount determined by the department, not to exceed \$25.

(b) The filing fee shall be deposited in the state treasury in the Land and Water Recreation and Safety Fund 63, and the department may pay from this fund the expenses of carrying out the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.167. Separate Applications

Any applicant who plans to operate more than one mobile business establishment must file a separate application accompanied by a separate filing fee for each mobile business establishment that he seeks to have licensed.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.168. Granting License

(a) On finding that the issuance of a license is consistent with recreational needs and the public welfare, and that the mobile business establishment would not create a traffic or safety hazard, and on compliance with this subchapter by the applicant, the department shall grant the license.

(b) The license shall be valid for one year from the day it is issued.

(c) If the license is not granted, the department shall return the filing fee to the applicant.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.169. Applications Not to be Granted

The department shall not grant an application:

- (1) for a business establishment located at a fixed or permanent location on a public beach;
- (2) for a business establishment that does not traverse the beach while doing business; or
- (3) that does not otherwise meet the terms and provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.170. License Prohibition Against Glass Containers

(a) Each license granted under this subchapter authorizing the sale of commodities on a public beach shall include a prohibition against the sale of any commodity in a glass container.

(b) Any person selling a commodity in a glass container on a public beach outside the boundaries of any incorporated city shall have his rights conferred by the license immediately terminated and revoked as provided in Section 61.172 of this code.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.171. Assignment

No license issued under this subchapter may be assigned.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.172. Termination and Revocation of License

(a) The failure or refusal of the licensee to comply with the terms and conditions of a license shall

operate as an immediate termination and revocation of all rights conferred in or claimed under the license.

(b) The termination and revocation of the license is not effective until notice is delivered by mail to the address of the licensee listed on the application for the license.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.173. Maximum Territorial Limits

(a) If territorial limitations are applied uniformly to all applicants seeking to operate mobile business establishments in the territory, the department may establish maximum territorial limits over which mobile business establishments may operate.

(b) A license to sell or lease only surfboards and related equipment may not be limited as to the territory over which the mobile business establishment may operate.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.174. Additional Standards

In addition to other standards provided in this subchapter, it is the intention of the legislature that the department exercise the authority delegated to it under this subchapter according to the following considerations:

- (1) that the number of mobile business establishments licensed by the department should not constitute a substantial interference with the free and unrestricted rights of ingress and egress of the public provided in this subchapter;
- (2) that the number of licenses issued by the department under this subchapter are sufficient to ensure free and unrestricted competition in selling or leasing of commodities to the public; and
- (3) that no person should be allowed to operate any mobile business establishment on any public beach in restraint of trade or competition by which the person controls all or substantially all the business establishments on the public beach licensed by the department.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.175. Rules, Procedures, and Conditions

The department may establish additional rules, procedures, and conditions necessary or appropriate to carry out the purposes of this subchapter.

[Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.176. Areas Exempt From Subchapter

This subchapter does not apply to a public beach that is within the boundaries of a state park desig-

nated by the department or to a remote beach on any island or peninsula which is not accessible by public road or common carrier ferry facility as long as that condition exists.

[Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.177. Penalty

A person, who for himself or on behalf of or under the direction of another person, operates any business establishment, whether mobile or at a fixed or permanent location, on any public beach outside the boundaries of any incorporated city without first obtaining a license to operate the business establishment from the department shall be fined not less than \$10 nor more than \$200.

[Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.178 to 61.210 reserved for expansion]

SUBCHAPTER F. REMOVAL OF SAND, MARL, GRAVEL, AND SHELL

§ 61.211. Findings

The legislature finds that the unregulated excavation, taking, removal, and carrying away of sand, marl, gravel, and shell from islands and peninsulas bordering on the Gulf of Mexico and from the public beaches of the state constitute a substantial interference with public enjoyment of Texas beaches and a hazard to life and property.

[Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.212. Exemptions From Subchapter

(a) The provisions of this subchapter do not apply:

- (1) to excavating, taking, removing, or carrying away sand, marl, gravel, or shell made for the purpose of constructing improvements on real property if the improvements are constructed on the property on which the excavating, taking, removing, or carrying away occurs;
- (2) to any landowner who desires to shift sand, marl, gravel, or shell from one location to another on land wholly owned by him; or
- (3) to any agency of the federal or state government or any county, city, or other political subdivision or any of their agents or officers acting in their official capacities.

(b) Any person who holds a lease that was issued by the state under Chapter 377, Acts of the 57th Legislature, Regular Session, 1961 (Article 5415e, Vernon's Texas Civil Statutes), before it was repealed shall be treated as an owner of the land and shall be entitled to excavate, take, remove, and carry away sand, marl, gravel, or shell for the purposes provided in Subsection (a) of this section

without obtaining a permit from the commissioners court.

[Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.213. Application

Before a person excavates, takes, removes, or carries away sand, marl, gravel, or shell from land located on an exposed island or peninsula bordering on the Gulf of Mexico or from land located within 1,500 feet of a mainland public beach that is located outside the boundaries of an incorporated city, town, or village, he must submit a written application to the commissioners court of the county in which the excavation, taking, removal, or carrying away is to take place.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.214. Contents of Application

The application shall include:

- (1) the name of the applicant;
- (2) the location and dimensions of the proposed excavation;
- (3) the property interest or contractual right that enables the applicant to excavate, take, remove, or carry away sand, marl, gravel, or shell; and
- (4) certification by the county treasurer, or other official exercising similar authority if there is no county treasurer, that the applicant has deposited a filing fee of \$50.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.215. Prerequisites to Issuance of Permit

No permit may be issued by the commissioners court under this subchapter to excavate, take, remove, or carry away sand, marl, gravel, or shell from land owned by the state, public beach, or privately owned land that is subject to this subchapter and that is not located on a public beach, unless the applicant is the owner of the land on which the proposed excavating, taking, removing, or carrying away is to take place or unless the applicant is acting with the knowledge and consent of the owner.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.216. Notice of Applications Received

(a) The commissioners court shall give public notice of all applications received for permits to excavate, take, remove, or carry away sand, marl, gravel, or shell.

(b) The notice shall be published once in a newspaper of general circulation in the county.

(c) The notice shall include the name of the applicant and the location and dimensions of the proposed activity.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.217. Public Hearing

(a) The commissioners court shall hold a public hearing if the hearing is requested by any citizen within 10 days after notice is published under Section 61.216 of this code.

(b) The hearing may not be held less than 30 days from the date of the first publication of notice under Section 61.218 of this code.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.218. Notice of Public Hearing

Notice of the public hearing shall be published at least once a week for at least two weeks in a newspaper of general circulation in the county.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.219. Issuance of Permit

(a) On a finding that the proposed excavating, taking, removing, or carrying away would not create hazardous conditions or imperil lives or property by exposing the island or peninsula or public beach to the ravages of storm water, the commissioners court may issue a permit to the applicant, and it shall be valid for six months from the date of its issuance.

(b) The decision to issue a permit shall be made with the advice and counsel of the county engineer in counties in which the commissioners court employs a county engineer.

(c) None of the provisions of this subchapter prohibit a commissioners court from issuing a permit to a person who holds a right-of-way easement granted by the commissioner for a pipeline to cross state land, provided the applicant complies with the provisions of this subchapter relating to the issuance of permits.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.220. Return of Filing Fee

If the commissioners court refuses to issue the permit, the applicant may recover his filing fee from the county treasurer or other official exercising similar authority if there is no county treasurer.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.221. Assignment of Permits

No permit may be assigned without the approval of the commissioners court.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.222. Termination and Revocation of Permit

Failure or refusal of the permittee to comply with the terms and conditions of the permit operates as an immediate termination and revocation of all rights conferred by or claimed under the permit.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.223. Suits for Orders and Injunctions

The attorney general, any county attorney, district attorney, or criminal district attorney of the state shall file in a district court in the county in which the conduct take place, a suit seeking temporary or permanent court orders or injunctions to prohibit any excavating, taking, removing, or carrying away of any sand, marl, gravel, or shell from land located on an exposed island or peninsula bordering on the Gulf of Mexico or from land located within 1,500 feet of a public beach of this state if the land is located outside the boundaries of an incorporated city, town, or village in violation of the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.224. Penalty

A person who for himself or on behalf of or under the direction of another person excavates, takes, removes, or carries away sand, marl, gravel, or shell from land located on an exposed island or peninsula bordering on the Gulf of Mexico or from land located within 1,500 feet of a public beach of this state, if the land is located outside the boundaries of any incorporated city, town, or village, in violation of the provisions of this subchapter shall be fined not less than \$10 nor more than \$200. Each day a violation occurs constitutes a separate offense.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.225. Sand, Marl, Gravel, or Shell From Public Beaches Within Incorporated Cities, Towns, or Villages

No incorporated city, town, or village having within its boundaries a public beach may authorize a person to excavate, take, remove, or carry away any sand, marl, gravel, or shell from the public beach except for the construction of a publicly owned and operated recreational facility or for the construction of a shoreline protection structure.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.226. Application of Subchapter to Certain Islands and Peninsulas

The provisions of this subchapter do not apply to any island or peninsula that is not accessible by a public road or common carrier ferry facility as long as that condition continues.

[Acts 1977, 65th Leg., p. 2491, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.227. Authority of Parks and Wildlife Department

None of the provisions of this subchapter may be construed to repeal or modify the provisions of Chapter 86, Parks and Wildlife Code, which relate to the powers and duties of the Parks and Wildlife Department over matters pertaining to the sale, taking, carrying away, or disturbing of sand, marl, gravel, or shell of commercial value and gravel, shells, mud shell, and oyster beds and their protection from free use and unlawful disturbing or appropriation, nor may this subchapter be construed to create additional or supplemental requirements or procedures to those provided in Chapter 86, Parks and Wildlife Code.

[Acts 1977, 65th Leg., p. 2491, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBCHAPTER G. BEACH STUDY COMMITTEE

Acts 1959, 56th Leg., 2nd C.S., p. 108, ch. 19, § 7, as amended, classified as Civil Statutes, art. 5415d, § 7, was repealed by § 2(b) of Acts 1983, 68th Leg., p. 1023, ch. 235, art. 5, which by § 2(a) thereof incorporated the provisions of § 7 of the 1959 Act into the Natural Resources Code by adding this Subchapter G, consisting of §§ 61.251 to 61.253.

§ 61.251. Beach Study Committee

(a) A committee of the legislature may study Texas beaches.

(b) The committee is composed of three state representatives appointed by the speaker of the house of representatives and three state senators appointed by the lieutenant governor.

(c) The commissioner of the General Land Office or a representative appointed by the land commissioner, the state engineer director of the State Department of Highways and Public Transportation or a representative appointed by the engineer director, and one other person who is a citizen of the state and who is appointed by the governor with the advice and consent of the senate are entitled to serve on the committee as ex officio members.

[Acts 1983, 68th Leg., p. 1022, ch. 235, art. 5, § 2(a), eff. Sept. 1, 1983.]

§ 61.252. Expenses

The expense incurred by a legislative member of the committee in performing a committee duty is payable as follows:

- (1) one-half of the expense is payable from the contingent expense fund of the house; and
- (2) one-half of the expense is payable from the contingent expense fund of the senate.

[Acts 1983, 68th Leg., p. 1022, ch. 235, art. 5, § 2(a), eff. Sept. 1, 1983.]

§ 61.253. Committee Duties

(a) The committee shall examine the special conditions prevailing as to the Texas shoreline and shall file its report to the legislature, whether in special or regular session, at the earliest time compatible with the performance of its duties.

(b) The report shall include recommendations for legislation, including the following subjects:

- (1) the most practical method of procuring the right-of-way necessary for construction of essential parallel highways and for vehicular parking areas (to facilitate access to the beach) all to be situated landward and above the beach;
- (2) the method of procuring easements for egress and ingress between parking areas and the beach;
- (3) the procedure for negotiation and execution of cooperative agreements between the state and affected landowners for acquisition by gift or purchase of rights-of-way and easements;
- (4) the recognition of rights of landowners to construct works, including groins, for the protection of their property and meeting the standards to be prescribed in the legislation;
- (5) the method of negotiations with landowners for additional easements or deeds for park areas adjacent to the beach, for the use and pleasure of the public, if the lands or easements can be obtained without cost to the state;
- (6) any change necessary to bring general legislation into conformity with the fixed procedures applicable to National Seashore Areas, to the extent that lands along the coast may be designated to a National Seashore Area; and
- (7) any other related matters as in the opinion of the interim committee should be included in the report so as to facilitate the development of Texas beaches as public recreational areas and to further their development as tourist attractions.

[Acts 1983, 68th Leg., p. 1022, ch. 235, art. 5, § 2(a), eff. Sept. 1, 1983.]

CHAPTER 62. BEACH PARK BOARD OF TRUSTEES

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SUBCHAPTER A. GENERAL PROVISIONS

§ 62.001. Applicability

(a) The provisions of this chapter apply to counties that are located or border on the Gulf of Mexico and have within their boundaries beaches that are suitable for park purposes. The suitability of a beach for park purposes is established conclusively when the commissioners court of the county makes a finding that the beach located within its boundaries, but not located within the boundaries of an incorporated city, is suitable for park purposes.

(b) As long as an island or peninsula is not accessible by a public road or common carrier ferry

facility, the provisions of this chapter do not apply to that island or peninsula.

(c) The provisions of this chapter do not interfere with, preempt, or in any manner restrict or usurp the authority of the land office over state-owned beaches.

(d) The provisions of this chapter do not prohibit the creation of, or limit the lawful actions of, a beach park board of trustees of a home-rule city as provided in Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962, as amended (Article 6081g-1, Vernon's Texas Civil Statutes).

(e) The provisions of this chapter do not permit any interference with the right the public has under the provisions of Subchapter B of Chapter 61 of this code to the free and unrestricted use of, and to ingress and egress to, the area bordering on the Gulf of Mexico from mean low tide to the line of vegetation, as that term is defined in Subsection (2), Section 61.001 of this code. A county, county official, or anyone acting under the authority of this chapter may not exercise any authority, contract out a right to exercise authority, or otherwise delegate authority beyond that specifically granted to it in Sections 61.122 through 61.128 of this code over that area notwithstanding any of the specific provisions of this chapter. The rights established in Subchapters B and D of Chapter 61 of this code are paramount over the rights or interests that might otherwise be created by the provisions of this chapter, and nothing in this chapter encroaches on those rights or upon land, or interests in land, that may ultimately be held subject to those rights.

[Acts 1977, 65th Leg., p. 2492, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.002. Definition

In this chapter, "board" means the Beach Park Board of Trustees.

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 62.003 to 62.010 reserved for expansion]

SUBCHAPTER B. CREATION OF BOARD

§ 62.011. Purpose and Authority

A county located or bordering on the Gulf of Mexico with a beach suitable for park purposes may create a board in the manner provided in this subchapter for the purpose of improving, equipping, maintaining, financing, and operating a public park or parks, or any facilities owned by the county, or to be acquired by the county, or to be managed by the county under the terms of a written contract. The board, to be designated Beach Park Board of Trustees,

has the powers and duties specified in this chapter.

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.012. Method of Creating Board

A board may be created after a favorable majority vote of the qualified voters of the county voting at an election held on the proposition.

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.013. Election

(a) The election shall be called by the commissioners court.

(b) Notice of the election shall be given in the manner provided by Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended.¹

(c) The ballots shall be printed to provide for voting for or against the proposition: "Establishing a beach park board of trustees."

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

¹ Civil Statutes, art. 701 et seq.

[Sections 62.014 to 62.040 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 62.041. Members of Board

(a) The board is composed of seven members appointed by the commissioners court.

(b) One board member shall be a member of the commissioners court.

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.042. Term of Office

(a) With the exception of the trustees first appointed, a trustee serves for a term of two years from the date of appointment.

(b) At the time of the appointment of the first trustees, the commissioners court shall designate three trustees to serve for one year and four trustees to serve for two years.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.043. Oath and Bond

(a) A trustee shall qualify within 15 days after his appointment by taking the official oath and filing a good and sufficient bond with the county clerk.

(b) The bond shall be approved by the commissioners court, payable to the county, in a sum not to exceed \$5,000 as approved by the commissioners

court of the county, and conditioned on the faithful performance of the duties of the trustee, including his proper handling of all money which may come into his hands in his capacity as a member of the board.

(c) The cost of the bond shall be paid by the board.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.044. Compensation; Expenses

A trustee serves without compensation but shall be reimbursed for travel and other necessary expenses incurred in the performance of his official duties.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.045. Vacancy

A vacancy on the board shall be filled by appointment of the commissioners court.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.046. Officers of Board

(a) On the appointment of the first trustees, the commissioners court shall designate one of the trustees to serve as chairman of the board for a period of one year.

(b) After the first year the board annually shall elect a chairman, a vice-chairman, a secretary, and a treasurer from among its members. The office of secretary and treasurer may be held by the same person.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.047. Park Manager

The board may employ and compensate a manager for any parks or facilities and may give him full authority in the management and operation of the park or parks or facilities subject only to the direction and orders of the board.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.048. Legal Services

(a) The board may call on the county attorney of the county for the legal services it requires.

(b) In lieu of or in addition to the county attorney, the board may employ and compensate its own counsel and legal staff.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.049. Employees of Board

(a) The board may employ temporary or permanent secretaries, stenographers, bookkeepers, accountants, technical experts, and other agents and employees it requires.

(b) The board shall determine the qualifications, duties, and compensation of its employees.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.050. Meetings

(a) The board shall hold regular meetings at times set by the board.

(b) The board may hold special meetings at the times business or necessity requires. Special meetings may be called by the chairman or any three members of the board.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.051. Board Records

(a) The board shall keep a true and full record of all its meetings and proceedings and preserve its minutes, contracts, accounts, and all other records in a fireproof safe or vault.

(b) The board may contract with the commissioners court of the county to have the county keep and maintain its records.

(c) All the records are the property of the board and are subject to inspection by the commissioners court at all reasonable times.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.052. Management of Funds

The money belonging to or under control of the board shall be deposited and secured in the same manner prescribed by law for county funds.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.053. Audit

Independent auditors selected by the board shall make an annual audit of all financial transactions and records of the board.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.054. Court Actions

The board may sue and be sued in its own name.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.055. Seal

The board shall adopt a seal which shall be placed on all leases, deeds, and other instruments usually

executed under seal and on other instruments required by the board.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 62.056 to 62.090 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 62.091. Land Under Jurisdiction, Management, and Control

(a) The following land is under the jurisdiction of the board:

- (1) public beaches owned in fee by the county; and
- (2) land used as parks in connection with public beaches not located inside the boundaries of an incorporated city and not inside the area bordering on the Gulf of Mexico from the line of mean low tide to the line of vegetation as that term is defined in Section 61.001(2) of this code.

(b) The Commissioners Court may designate the following land to be under the management and control of the board:

- (1) additional parks and facilities owned by the county; or
- (2) additional parks and facilities to be managed by the county under the terms of a written contract.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.092. Priority of Jurisdiction

(a) The board has no jurisdiction over a public beach located inside the boundaries of the county that has been designated a national park, national seashore, or state park.

(b) The authority of the board preempts the right of the county board of park commissioners to act with regard to a beach, park, or facility within the jurisdiction of the board.

(c) The provisions of this chapter are cumulative of other laws relating to county parks but take precedence in the event of conflict.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.093. Park Authority

The board may manage, operate, maintain, equip, and finance an existing public park placed under its jurisdiction by the commissioners court and may improve, manage, operate, maintain, equip, and finance additional parks acquired by gift but not acquired by the exercise of the power of eminent domain.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Amendment by Acts 1977, 65th Leg., p. 1263, ch. 487, § 1

Acts 1977, 65th Leg., p. 1263, ch. 487, § 1, purports to amend § 7 of Civil Statutes, art. 5415d-3 [now, this section in part], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so amended, the applicable part of § 7 reads:

*" * * * In addition to the powers and authority herein granted, the board shall have and exercise the following powers and authority:*

"(a) To manage, operate, maintain, equip, improve, and finance any and all existing public parks placed under its jurisdiction by the commissioners court;

*"(b) To improve, manage, operate, maintain, equip, and finance additional parks acquired by gift or otherwise, but not by the exercise of the power of eminent domain; * * *"*

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

§ 62.094. Fee Charged

The board may charge and collect a reasonable fee for access or entrance to or parking on the land under its jurisdiction, other than public beaches owned by the county, or use of a facility located on land under its jurisdiction.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.095. Use of Funds

(a) The board may accept, receive, and spend gifts of money or other things of value from any person for the purpose of performing any function, power, or authority vested in the board and funds from the county that are appropriated by the county from time to time for the purpose of improving, equipping, maintaining, operating, and promoting recreational facilities under the board's supervision and control.

(b) The board may spend money appropriated by the commissioners court for the purpose of cleaning and maintaining public beaches and land within its jurisdiction, including money appropriated to the commissioners court by the state for that purpose.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.096. Contracts, Leases, and Other Agreements Relating to Land and Facilities

The board may enter into a contract, lease, or other agreement connected with, incident to, or affecting the financing, construction, equipping, maintenance, or operation of facilities located or to be located on or pertaining to land under its jurisdiction or facilities under its control and may execute and perform its lawful powers and functions on land leased from others.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.097. Contracts, Leases, and Other Agreements Relating to Management, Operation, and Maintenance of Land and Facilities

The board may enter into any contract, lease, or agreement with any person for a period of not more than 40 years relating to the management, operation, and maintenance of a concession, facility, improvement, leasehold, land, or other property over which the board has jurisdiction and control.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.098. Contracts With Other Governmental Agencies

To accomplish any purpose authorized in this chapter, the board may enter into contracts with:

- (1) adjacent counties;
- (2) boards in adjacent counties; and
- (3) boards in cities of the same county in which the board has jurisdiction.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.099. Advertising

The board may advertise the county's recreational advantages for the purpose of attracting tourists, residents, and other users of the public facilities operated by the board.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Amendment by Acts 1977, 65th Leg., p. 1263, ch. 487, § 1

Acts 1977, 65th Leg., p. 1263, ch. 487, § 1, purports to amend § 7 of Civil Statutes, art. 5415d-3 [now, this section in part], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so amended, the applicable part of § 7 reads:

*" * * * In addition to the powers and authority herein granted, the board shall have and exercise the following powers and authority: * * **

"(d) To publish brochures and otherwise advertise the county's recreational advantages for the purposes of attracting tourists, residents, and other users of the public facilities operated by the board;

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

§ 62.100. Rules

The board may adopt and enforce reasonable rules for the use of parks and facilities under the jurisdiction and control of the board by the public or by lessees, concessionaires, and other persons carrying on a business activity inside the area of the public parks and facilities.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.101. Legislative Intent

It is the intent of the legislature in enacting the provisions of this chapter that the rights established or recognized in Subchapters B and D of Chapter 61 of this code are paramount over any rights or interests that might otherwise be considered created by this chapter, and none of the provisions of this chapter may trench on those rights or encroach on land or interests in land that may ultimately be held subject to those rights.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 62.102 to 62.130 reserved for expansion]

SUBCHAPTER E. ISSUANCE OF BONDS

§ 62.131. Authority to Issue Revenue Bonds

For the purpose of improving and enlarging public parks and facilities, the board may issue revenue bonds payable solely from the revenue of all or any designated part of the properties or facilities under the jurisdiction and control of the board.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Amendment by Acts 1977, 65th Leg., p. 1263, ch. 487, § 1

Acts 1977, 65th Leg., p. 1263, ch. 487, § 1, purports to amend § 7 of Civil Statutes, art. 5415d-3 [now, this section in part], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so amended, the applicable part of § 7 reads:

" * * * In addition to the powers and authority herein granted, the board shall have and exercise the following powers and authority: * * *

"(1) To issue revenue bonds in the name of the board which shall be payable solely from the revenues of all or any designated part or parts of the properties or facilities under the jurisdiction and control of the board or from any other source of funds the board may wish to dedicate for that purpose, for the purpose of acquiring, developing, improving, and enlarging public recreational areas and facilities. * * *"

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

§ 62.132. Formal Requirements of Bonds

(a) The bonds may be issued by resolution adopted by the board without the necessity of an election.

(b) The bonds may be issued in the name of the board in one or more installments or series and shall mature serially or otherwise within 40 years from their date or dates.

(c) The bonds shall be issued on the terms and conditions, with regard to the security, manner, place, and time of payment, pledge of designated revenue, redemption before maturity, and the issuance of additional parity or junior lien bonds, that the board specifies in the resolution or resolutions authorizing the bonds.

(d) The bonds shall be executed by the chairman and secretary of the board and shall be signed by the chairman and secretary or shall bear the facsimile signature of either or both.

(e) The bonds shall display the seal of the board, which may be impressed, printed, or lithographed on the bonds.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Amendment by Acts 1977, 65th Leg., p. 1263, ch. 487, § 1

Acts 1977, 65th Leg., p. 1263, ch. 487, § 1, purports to amend § 7 of Civil Statutes, art. 5415d-3 [now, this section in part], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so amended, the applicable part of § 7 reads:

" * * * In addition to the powers and authority herein granted, the board shall have and exercise the following powers and authority: * * *

"(1) * * * Such bonds may be issued in one or more installments or series by resolutions adopted by the board without the necessity of an election, shall bear interest at a rate not to exceed 10 percent per annum, shall mature serially or otherwise within 40 years from their date or dates, shall be sold by the board on the best terms obtainable, except that the annual interest rate and discount may not exceed 10 percent per annum, * * *"

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

§ 62.133. Sale of Bonds

The board shall sell the bonds on the best terms obtainable but not for less than par and accrued interest.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.134. Approval and Registration

The bonds shall not be delivered until a transcript of the proceedings authorizing their issuance has been submitted to the attorney general and approved as to legality by the attorney general and the bonds are registered by the comptroller of public accounts.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.135. Authorized Investments

The bonds issued under the provisions of this subchapter are legal and authorized investments for banks, saving banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state.

[Acts 1977, 65th Leg., p. 2498, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.136. Security for Deposits

The bonds are eligible to secure the deposit of public funds of the state and public funds of cities, towns, villages, or other political corporations or subdivisions of the state and are lawful and suffi-

cient security for deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant to them.

[Acts 1977, 65th Leg., p. 2498, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.137. Tax Bonds

(a) The board shall not issue bonds payable in whole or in part from ad valorem taxes.

(b) The board may receive and spend the proceeds of bonds payable from taxes which are issued by the governing body of the county for park purposes after the bonds are authorized at an election held in the manner required by law.

[Acts 1977, 65th Leg., p. 2498, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.138. Refunding Bonds

(a) The board may issue refunding bonds for the purpose of refunding one or more series or installments of outstanding original or refunding bonds of the board.

(b) The refunding bonds shall be issued, approved as to legality by the attorney general, and registered by the comptroller of public accounts in the manner and on the terms and conditions provided in this subchapter for the issuance of original revenue bonds.

[Acts 1977, 65th Leg., p. 2498, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 63. DUNES

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- 63.013. Notice.
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- 63.091. Conduct Prohibited Between the Texas-Louisiana State Line and Aransas Pass.

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- 63.121. Identification of Critical Dune Areas.
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- 63.151. Appeal by Littoral Owner.
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SUBCHAPTER A. GENERAL PROVISIONS

§ 63.001. Findings of Fact

The legislature finds and declares:

(1) that the barrier islands and peninsulas of this state and the adjacent mainland areas contain a significant portion of the state's human, natural, and recreational resources;

(2) that these areas are wholly or in part protected from the action of the water of the Gulf of Mexico and storms on the Gulf by a system of natural or artificially constructed vegetated sand dunes that provide a protective barrier for adjacent land and inland water and land against the action of sand, wind, and water;

(3) that certain persons have from time to time modified or destroyed the effectiveness of the protective barriers in the process of developing the shoreline for various purposes;

(4) that the operation of recreational vehicles over these dunes has destroyed the natural vegetation on them;

(5) that these practices constitute serious threats to the safety of adjacent properties, to public highways, to the taxable basis of adjacent property and constitute a real danger to the health, safety, and welfare of persons living, visiting, or sojourning in the area;

(6) that it is necessary to protect these dunes as provided in this chapter because stabilized, vegetated dunes offer the best natural defense against storms;

(7) that vegetated stabilized dunes help preserve state-owned beaches and shores by protecting against erosion of the shoreline;

(8) that the area bounded on the north by the Mansfield Ship Channel and extending to the southern tip of South Padre Island is an area of irregular dunes, the vast majority of which are unvegetated, unstable, and migratory, and these dunes do not afford significant protection to persons and property inland from this area; and

(9) that the area bounded on the north by the inlet known as Aransas Pass and on the south by the Mansfield Ship Channel is an area of a mix-

ture of irregular dunes as described in Subdivision (8) of this section and dunes that afford protection to persons and property inland.

[Acts 1977, 65th Leg., p. 2499, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.002. Definitions.

In this chapter:

(1) "Commissioner" means the Commissioner of the General Land Office.

(2) "Barrier island" means an island bordering on the Gulf of Mexico and entirely surrounded by water.

(3) "Peninsula" means an arm of land bordering on the Gulf of Mexico surrounded on three sides by water.

(4) "Recreational vehicle" means a dune buggy, marsh buggy, minibike, trail bike, jeep, or any other mechanized vehicle that is being used for recreational purposes, but does not include any vehicle not being used for recreational purposes.

[Acts 1977, 65th Leg., p. 2500, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.003. Effect of Chapter

The provisions of this chapter do not apply to any island or peninsula not accessible by public road or common carrier ferry facility for as long as that condition exists.

[Acts 1977, 65th Leg., p. 2500, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.004 to 63.010 reserved for expansion]

SUBCHAPTER B. DUNE PROTECTION LINE

§ 63.011. Establishing Dune Protection Line

After notice and hearing, the commissioners court of any county bordering on the Gulf of Mexico that has within its boundaries a barrier island or peninsula located north of the Mansfield Ship Channel may establish a dune protection line on the island or peninsula for the purpose of preserving sand dunes that offer a defense against storm water and erosion of the shoreline.

[Acts 1977, 65th Leg., p. 2500, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.012. Location of Dune Protection Line

The dune protection line shall not be located further landward than a line drawn parallel to and 1,000 feet landward of the line of mean high tide of the Gulf of Mexico.

[Acts 1977, 65th Leg., p. 2500, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.013. Notice

(a) Notice of a hearing to consider establishing the dune protection line shall be published at least three times in the newspaper with the largest circulation in the county. The notice shall be published not less than one week nor more than three weeks before the date of the hearing.

(b) Notice shall be given to the commissioner not less than one week nor more than three weeks before the hearing.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.014. Map and Description of Dune Protection Line

(a) The commissioners court in establishing a dune protection line shall define the line by presenting it on a map or drawing, by making a written description, or by both. Each shall be designated appropriately and filed with the county clerk and with the commissioner.

(b) Notice of alterations in the dune protection line shall be filed with the county clerk and with the commissioner, and the appropriate changes shall be made on the map, drawing, or description.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.015. Dune Protection Line Prohibited

No dune protection line may be established for the purpose of protecting dunes located inside a state or national park area.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.016 to 63.050 reserved for expansion]

SUBCHAPTER C. PERMITS

§ 63.051. Permit Requirement

An owner of land or a person holding an interest in land under the owner who desires to perform any acts on the land which are prohibited in Sections 63.091 through 63.092 of this code must apply for a permit from the commissioners court.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.052. Permit Not Required

No permit is required for the following activities:

- (1) grazing livestock;
- (2) production of oil and gas; and
- (3) recreational activity other than the operation of a recreational vehicle.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.053. Fee

The commissioners court may require a reasonable fee to accompany the application.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.054. Grant of Application

(a) The commissioners court shall evaluate the permit application, and if the commissioners court finds as a fact after full investigation that the particular conduct proposed will not materially weaken the dune or reduce its effectiveness as a means of protection from the effects of high wind and water, it may grant the application.

(b) In determining whether or not to grant the application, the commissioners court shall consider the height, width, and slope of the dune and the restoration of protection affected by construction as well as the restoration of vegetation.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.055. Terms and Conditions of Permit

The commissioners court may include in a permit the terms and conditions it finds necessary to assure the protection of life and property.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.056. Notice to and Comments of Commissioner on Permits

(a) After receiving an application for a permit to perform any of the acts prohibited in Sections 63.091 through 63.092 of this code in a critical dune area, the commissioners court shall notify the commissioner by sending to him, not less than 10 days before the public hearing on the application, notice of the hearing and a copy of the application.

(b) The commissioner may submit any written or oral comments regarding the effect of the proposed activity on the dunes that protect state-owned land, shores, and submerged land.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.057. Permit for Recreational Vehicle Prohibited

No permit may be issued by the commissioners court that allows the operation of a recreational vehicle on a sand dune seaward of the dune protection line.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.058 to 63.090 reserved for expansion]

SUBCHAPTER D. PROHIBITIONS

§ 63.091. Conduct Prohibited Between the Texas-Louisiana State Line and Aransas Pass

Unless a permit is obtained authorizing the conduct, no person in any county in the area bounded on the south by the inlet known as Aransas Pass and on the north by the Texas-Louisiana state line, where a dune protection line has been established, may damage, destroy, or remove a sand dune or portion of a sand dune on a barrier island or peninsula seaward of the dune protection line or kill, destroy, or remove in any manner any vegetation growing on a sand dune seaward of the dune protection line.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.092. Conduct Prohibited Between Aransas Pass and Mansfield Ship Channel

In any county in the area bounded on the north by the inlet known as Aransas Pass and on the south by the Mansfield Ship Channel, where a dune protection line has been established, no person without a permit may:

(1) excavate, remove, or relocate a sand dune or a portion of a sand dune that is located seaward of the dune protection line, thus reducing the sand dune to an elevation less than the elevation or elevations shown on the Special Flood Hazard Map of the area adopted by the administrator of the Federal Insurance Administration under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.); or

(2) kill, destroy, or remove in any manner vegetation growing on a sand dune seaward of the dune protection line without making provision for the stabilization of the dune by the installation or construction of improvements or the replanting or resodding of vegetation on the dune to maintain the dune at the minimum elevation provided in Subdivision (1) of this section.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.093. Prohibited Operation of Recreational Vehicles

No person may operate a recreational vehicle on a sand dune seaward of the dune protection line in any county in which a dune protection line has been established.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.094 to 63.120 reserved for expansion]

SUBCHAPTER E. CRITICAL DUNE AREAS

§ 63.121. Identification of Critical Dune Areas

The commissioner, in his role as trustee of the public land of this state, shall identify the critical dune areas that are essential to the protection of state-owned land, shores, and submerged land.

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.122. Notice to Counties

After the commissioner has identified the critical dune areas, notice of the critical dune areas shall be given to the commissioners court of each county in which one or more of these areas is located.

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.123 to 63.150 reserved for expansion]

SUBCHAPTER F. APPEALS

§ 63.151. Appeal by Littoral Owner

A littoral owner aggrieved by a decision of the commissioners court under this chapter may appeal to a district court in that county.

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.152. Appeal by Commissioner

The commissioner, in his role as trustee of the public land of this state, may appeal to a district court of that county any decision of the commissioners court that the commissioner determines to be a violation of this chapter.

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.153 to 63.180 reserved for expansion]

SUBCHAPTER G. PENALTIES

§ 63.181. Penalty

(a) A person who violates the provisions of this chapter shall be fined not more than \$200.

(b) Each day that a violation occurs constitutes a separate offense.

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBTITLE F. LAND OF POLITICAL SUBDIVISIONS

CHAPTER 71. LEASE FOR MINERAL DEVELOPMENT

SUBCHAPTER A. LEASES BY POLITICAL SUBDIVISIONS

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- 71.001. Definition.
- 71.002. Authority to Lease.
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- 71.006. Receiving Bids and Awarding Lease.
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- 71.051. Definitions.
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- 71.053. Compliance With Governmental Agencies.
- 71.054. Terms and Conditions of Leases of County School Land.
- 71.055. Additional Terms of Leases.
- 71.056. Amending Lease.
- 71.057. Authority to Commit Royalty Interests.

SUBCHAPTER A. LEASES BY POLITICAL SUBDIVISIONS

§ 71.001. Definition

In this subchapter, "political subdivision" means any body corporate with a recognized and defined area.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.002. Authority to Lease

A political subdivision may lease land owned by it for mineral development, including development of coal and lignite.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.003. Governing Body to Exercise Authority

The governing body of the political subdivision which is vested by law with management, control, and supervision of the political subdivision shall exercise the right to lease the land.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.004. Notice and Hearing

Before a lease is made under this subchapter, notice must be given and a public hearing must be held for consideration of bids.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.005. Notice of Intention to Lease Land

(a) After the governing body determines that it is advisable to lease land belonging to the political subdivision, it shall give notice of the intention to lease the land.

(b) The notice shall describe the land to be leased and designate the time and place at which the governing body will receive and consider bids for the lease.

(c) The notice shall be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.006. Receiving Bids and Awarding Lease

On the date specified in the notice, the governing body of the political subdivision shall receive and consider bids submitted for leasing all or part of the land that was advertised for lease, and the governing body may award the lease to the highest and best bidder who submits a bid.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.007. Rejection of Bids and Additional Bids

If the governing body believes that the bids submitted to it do not represent the fair value of the leases, the governing body may reject the bids, give notice, and call for additional bids.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.008. Grant of Lease

A lease made under this subchapter, including leases for coal and lignite, may be granted by public auction.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.009. Royalty

(a) In each lease other than a lease for coal and lignite executed under this subchapter, the lessor shall retain at least a one-eighth royalty.

(b) In a lease for coal and lignite executed under this subchapter, the lessor shall retain at least a royalty based on one of the following or a combination of the following:

- (1) a sum certain per ton;
- (2) a percentage certain of the gross sale price F.O.B. at the mine site of the coal and lignite; or
- (3) a sum certain for each acre-foot of coal and lignite mined and removed from the premises.

(c) Royalties under a coal and lignite lease may be paid as advanced mineral royalties.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.010. Lease Term

(a) No primary term of a lease other than a lease for coal and lignite made under this subchapter may be for a period of more than 10 years from the date of the execution and approval of the lease.

(b) No primary term for a coal and lignite lease made under this subchapter may be for a period of more than 35 years from the date of execution.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 71.011 to 71.050 reserved for expansion]

SUBCHAPTER B. POOLING MINERAL LEASES

§ 71.051. Definitions

In this subchapter:

(1) "City or town" means a city or town organized or chartered under the general laws of the state or under a special act or charter.

(2) "Political subdivision" means a body corporate which has a recognized and defined area.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.052. Inserting Pooling Provisions in Leases

A city, town, or political subdivision may insert in an oil and gas lease or in an oil, gas, and mineral lease executed by it a provision authorizing the lessee to pool the lease, the land or minerals included in the lease, or any part of these with any other land, leases, mineral estates, or parts of any of these to form a drilling or spacing unit for the exploration, development, and production of oil or gas and authorizing the lessee to form the units and accomplish the pooling by written designations filed in the county in which the land is located.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.053. Compliance With Governmental Agencies

With respect to land owned by the city or town or other land owned by the political subdivisions, the drilling or spacing units may not be more than the minimum number of acres on which an oil and gas well must be located to comply with the rules or orders of the Railroad Commission of Texas or any other federal or state regulatory body that has

authority to control or regulate the spacing of oil and gas wells.

[Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.054. Terms and Conditions of Leases of County School Land

Leases of county school land that are governed by Article VII, Section 6, of the Texas Constitution, may include authorization for the formation of drilling and spacing units on any terms and provisions the commissioners court considers best.

[Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.055. Additional Terms of Leases

A lease covered by this subchapter may provide:

(1) that the entire acreage pooled into a unit shall be treated for all purposes except the payment of royalties as if it were included in the lease and drilling or reworking operations and production of oil or gas on any part of the unit shall be considered for all purposes except the payment of royalties as if the operations were on and production were from the land included in the lease whether or not the well or wells are located on the premises included in the lease; and

(2) that instead of the royalties provided in the lease, the lessor shall receive on production from a pooled unit only the proportion of the royalty provided in the lease as the amount of the lessor's acreage placed in the unit or its royalty interest on an acreage basis bears to the total acreage included in the unit.

[Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.056. Amending Lease

On application of the lessee or present owner of any oil and gas lease or any oil, gas, and mineral lease validly executed before June 4, 1953, by any city, town, or political subdivision, the governing body of the city, town, or political subdivision may amend the lease to include a pooling provision that includes the terms provided in this subchapter.

[Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.057. Authority to Commit Royalty Interests

(a) A city, town, or political subdivision without notice may commit, to any agreement that provides for the operation of areas as a unit for the exploration, development, and production of oil or gas, any royalty interests owned by the city, town, or political subdivision in oil or gas.

(b) The agreement may include any terms and provisions that the city, town, or political subdivision considers best and may provide in substance:

(1) that operations incident to drilling a well on any portion of a unit shall be considered for all purposes to be the conduct of the operation on each separately owned tract in the unit by the several owners of the tracts;

(2) that the production allocated to each tract included in a unit shall, when produced, be considered for all purposes to have been produced from the tract by a well drilled on it;

(3) that any lease that covers any part of the area committed to the agreement shall continue in force as long as oil or gas is produced in paying quantities from any part of the unit area; and

(4) that royalties reserved to the city, town, or political subdivision from any tract or portion of a tract included within the unit shall be paid only on that portion of the production allocated to the tract or on the value of the production allocated according to the agreement.

(c) No agreement may be made by any city, town, or political subdivision which commits the city, town, or political subdivision to the payment of any part of the cost or expense of operating any unit area or any well located on the area.

[Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

TITLE 3. OIL AND GAS

SUBTITLE A. ADMINISTRATION

CHAPTER 81. RAILROAD COMMISSION OF TEXAS

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81.001. Definitions.

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81.0531. Administrative Penalty.

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SUBCHAPTER A. GENERAL PROVISIONS

§ 81.001. Definitions

In this chapter:

- (1) "Commission" means the Railroad Commission of Texas.
(2) "Commissioner" means any member of the Railroad Commission of Texas.

[Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 81.002 to 81.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 81.011. Chief Supervisor

(a) The commission shall employ a chief supervisor of its oil and gas division to assist the commission in enforcing the laws relating to the production, transportation, and conservation of oil and gas and rules and orders of the commission adopted under these laws.

(b) The chief supervisor also shall perform the duties of the pipeline expert as provided in the pipeline laws of this state.

[Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.012. Qualifications of Chief Supervisor

In addition to other qualifications that may be required by the commission, a person appointed chief supervisor must have had at least five years' experience in some line of the oil or gas business, or in some other business or profession that would

provide the necessary knowledge and experience for the performance of his duties.

[Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.013. Deputy Supervisors, Assistants, and Clerical Personnel

The commission may appoint a chief deputy supervisor, deputy supervisors, assistants, and clerical personnel necessary to execute the laws relating to oil and gas.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.014. Qualifications of Chief Deputy Supervisor

A person appointed chief deputy supervisor must have had at least three years' experience in oil and gas field work.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.015. Qualifications of Deputy Supervisors

Any person appointed deputy supervisor must have had at least two years' experience in oil and gas field work, including substantial experience in drilling or production.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.016. Salaries

The salary of the chief supervisor, the chief deputy supervisor, and the deputy supervisors shall be the same as that provided in the General Appropriations Act.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.017. Additional Employees

The commission may employ gaugers, inspectors, investigators, supervisors, and clerical employees. These employees shall include a chief engineer, chief petroleum engineer, and an administrative chief, and their salaries shall be paid in the amounts provided in the General Appropriations Act.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 144, ch. 65, § 1, eff. Sept. 1, 1981.]

§ 81.018. Payment of Salaries and Other Expenses

(a) Salaries and other expenses necessary in the administration and enforcement of the oil and gas laws shall be paid by warrants drawn by the comptroller on the State Treasury from funds provided under Section 81.112 of this code.

(b) Warrants for expenses shall be issued only on duly verified statements of the persons entitled to

the funds and on approval of the chairman of the commission.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.019. Duties of Chief Supervisor, Chief Deputy Supervisor, Deputy Supervisors, and Other Employees

The chief supervisor, chief deputy supervisor, deputy supervisors, and other employees shall perform the duties prescribed by the commission in conformity with rules of the commission relating to the production, transportation, and conservation of crude oil and natural gas.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.020. Additional Duties of Chief Supervisor and His Deputies

(a) The chief supervisor and his deputies shall supervise the plugging of all abandoned wells and the shooting of wells and shall follow the rules of the commission relating to the production and conservation of oil and gas.

(b) The chief supervisor shall gather information and assist the commission in the performance of its duties under this title.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 81.021 to 81.050 reserved for expansion]

SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

§ 81.051. Jurisdiction of Commission

(a) The commission has jurisdiction over all:

- (1) common carrier pipelines defined in Section 111.002 of this code in Texas;
- (2) oil and gas wells in Texas;
- (3) persons owning or operating pipelines in Texas; and
- (4) persons owning or engaged in drilling or operating oil or gas wells in Texas.

(b) Persons listed in Subsection (a) of this section and their pipelines and oil and gas wells are subject to the jurisdiction conferred by law on the commission.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, § 5, eff. Sept. 1, 1977.]

§ 81.052. Rules

The commission may adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the commission as set forth in Section 81.051, including such rules as the commission may consider necessary and appropriate to implement state responsibility under any federal

law or rules governing such persons and their operations.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 19, ch. 12, § 1, eff. March 15, 1979.]

§ 81.053. Commission Powers

In the discharge of its duties and the enforcement of its jurisdiction under this title, the commission shall:

- (1) institute suits;
- (2) hear and determine complaints;
- (3) require the attendance of witnesses and pay their expenses out of funds provided for that purpose;
- (4) obtain the issuance of writs and process which may be necessary for the enforcement of its orders; and
- (5) punish for contempt or disobedience of its orders in the manner provided for the district courts.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.0531. Administrative Penalty

(a) If a person violates provisions of this title¹ which pertain to safety or the prevention or control of pollution or the provisions of a rule, order, license, permit, or certificate which pertain to safety or the prevention or control of pollution and are issued under this title, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the permittee's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged.

[Acts 1983, 68th Leg., p. 1407, ch. 286, § 1, eff. Sept. 1, 1983.]

¹ Section 81.001 et seq.

§ 81.0532. Penalty Assessment Procedure

(a) A civil penalty may be assessed only after the person charged with a violation described under Section 81.0531 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

[Acts 1983, 68th Leg., p. 1407, ch. 286, § 1, eff. Sept. 1, 1983.]

§ 81.0533. Payment of Penalty; Refund

(a) On the issuance of an order finding that a violation has occurred, the commission shall inform the person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the decision or order is final as provided in Section 16(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), the person charged with the penalty shall:

- (1) pay the penalty in full; or
- (2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:
 - (A) forward the amount to the commission for placement in an escrow account; or
 - (B) in lieu of payment into escrow, post with the commission a supersedeas bond in a form approved by the commission for the amount of the penalty, such bond to be effective until all judicial review of the order or decision is final.

(c) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the commission, remit the appropriate amount to the person, with accrued interest, or where a supersedeas bond has been posted, the commission shall execute a release of such bond.

(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(e) Judicial review of the order or decision of the commission assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with the district court of Travis County, Texas, and not elsewhere, as provided for in Section 19, Administrative Procedure and Texas

Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1983, 68th Leg., p. 1407, ch. 286, § 1, eff. Sept. 1, 1983.]

§ 81.0534. Recovery of Penalty

Civil penalties owed under Sections 81.0531-81.0533 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

[Acts 1983, 68th Leg., p. 1407, ch. 286, § 1, eff. Sept. 1, 1983.]

§ 81.054. Enforcement by Attorney General

The attorney general shall enforce the provisions of this title by injunction or other adequate remedy and as otherwise provided by law.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 81.055 to 81.090 reserved for expansion]

SUBCHAPTER D. WITNESSES

§ 81.091. Incriminating Testimony

If a witness fails or refuses to appear on being summoned, to answer any question he is asked, or to produce any record or data required by subpoena, the claim that the testimony may tend to incriminate the person giving it does not excuse the witness from testifying or producing the records and data, but the evidence or testimony may not be used against the person on the trial of any criminal proceeding.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.092. Fee for Executing Process

The sheriff or constable executing process shall receive the compensation authorized by the commission.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 81.093 to 81.110 reserved for expansion]

SUBCHAPTER E. TAX

§ 81.111. Tax Levy

(a) A tax is levied on crude petroleum produced in this state in the amount of three-sixteenths of one cent on each barrel of 42 standard gallons.

(b) This tax is in addition to and shall be collected in the same manner as the occupation tax on the production of crude petroleum.

(c) Chapter 202, Tax Code, as amended, applies to the administration and collection of the tax imposed by this section, and the penalties provided by that

chapter apply to any person who fails to pay or report the tax under this section.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1024, ch. 235, art. 5, § 3(a), eff. Sept. 1, 1983.]

§ 81.112. Disposition of Tax Proceeds

The tax shall be deposited in the General Revenue Fund.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 144, ch. 65, § 1, eff. Sept. 1, 1981.]

§ 81.113. Use of Tax Proceeds

Proceeds from the tax shall be used for the administration of the state's oil and gas conservation laws.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.114. Production Reports

Producers of crude petroleum shall make reports of production in the same manner and under the same penalties as provided for the occupation tax on the production of crude oil.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.115. Payments to Oil and Gas Division

Money appropriated to the oil and gas division of the commission under the General Appropriations Act shall be paid from the General Revenue Fund.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 144, ch. 65, § 1, eff. Sept. 1, 1981.]

[Sections 81.116 to 81.150 reserved for expansion]

SUBCHAPTER F. CAMPAIGNING

§ 81.151. Penalty for Campaigning

A person who receives a salary from funds provided under this title and who uses his time or a state-owned automobile for campaign purposes or for the purpose of furthering the candidacy of his employer or any other candidate for state office is guilty of a misdemeanor and on conviction shall be fined not less than \$100 nor more than \$500 and shall be confined in jail for not less than 30 nor more than 90 days.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.152. Discharge and Ineligibility

A person found guilty under Section 81.151 of this code shall be discharged immediately from his

position and shall be ineligible for employment by the state in the future.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.153. Setting Civil Complaint for Hearing

If a citizen of this state files a civil complaint with a district court in Travis County charging an employee with use of his time or a state-owned automobile for campaign purposes or to further the candidacy of his employer or any other candidate for state office, the court shall set the complaint for hearing at a time not less than 10 nor more than 20 days after the day on which the complaint is filed.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.154. Notice to Employee

The court shall have notice of the hearing served on the employee against whom the complaint was filed at least five days before the date of the hearing.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.155. Court's Order

At the hearing, if the court determines that the employee has used his time or a state-owned automobile as charged in the complaint, the court shall certify the fact to the department, agency, or commission which employs the person and order the employee's immediate discharge.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.156. Appeal

Any person against whom charges have been filed is entitled to appeal to the court of appeals, but the pendency of the appeal does not suspend his discharge.

[Acts 1977, 65th Leg., p. 2512, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 799, ch. 291, § 91, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides, in part: "This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction."

SUBTITLE B. CONSERVATION AND REGULATION OF OIL AND GAS

CHAPTER 85. CONSERVATION OF OIL AND GAS

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SUBCHAPTER A. GENERAL PROVISIONS

§ 85.001. Definitions

(a) In this chapter:

- (1) "Commission" means the Railroad Commission of Texas.
- (2) "Pool," "common pool," "field," or "common source of supply" means a common reservoir.
- (3) "Pool" means an underground reservoir containing a connected accumulation of crude petroleum oil, or natural gas, or both.
- (4) "Product" and "product of oil or gas" mean a commodity or thing made or manufactured from

oil or gas and derivatives or by-products of oil or gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, lubricating oil, casinghead gas, casinghead gasoline, blended gasoline, and blends or mixtures of oil, or gas, or any derivatives or by-products of them.

(b) "Oil" means crude petroleum oil, crude petroleum, and crude oil, and "gas" means natural gas. These terms shall not be construed as referring to substances different from those referred to in this chapter and other laws as "oil and gas" and these terms mean the same whether used in this chapter or in other laws relating to the conservation of oil and gas.

[Acts 1977, 65th Leg., p. 2514, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.002. Antitrust and Monopoly Statutes

(a) The provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, and Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, do not affect, alter, diminish, change, or modify the antitrust and monopoly laws of this state and do not directly or indirectly authorize a violation of the antitrust and monopoly laws of this state.

(b) It is the legislative intent that no provision of this chapter that was formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, or Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, shall affect, alter, diminish, or amend in any manner a provision of the antitrust and monopoly laws of this state or authorize a violation of the antitrust and monopoly laws. The legislative intent expressed in this subsection shall prevail and take precedence over sections cited in this subsection regardless of any statement in these sections to the contrary.

(c) If any provision of this chapter that was formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, or Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, is construed by a court of this state in a manner that will affect, alter, diminish, or modify any provision of the antitrust and monopoly laws of this state, this provision which is

in conflict is declared null and void rather than the antitrust and monopoly laws.

[Acts 1977, 65th Leg., p. 2515, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.003 to 85.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 85.011. Supervisors, Deputy Supervisors, and Umpires

The commission shall employ all supervisors, deputy supervisors, and umpires necessary to carry out the provisions of this chapter and other related laws and rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2515, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.012. Assistants and Clerical Help

The commission shall employ other assistants and clerical help necessary to carry out the provisions of this chapter and other related laws and rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2515, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.013. Persons Enforcing Rules and Orders

A person entrusted with the enforcement of the rules and orders of the commission shall be a regular employee of the state and paid by the state. No person other than a regular employee of the state may be charged with or relied on for the performance of these duties.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.014 to 85.040 reserved for expansion]

SUBCHAPTER C. PROVISIONS GENERALLY APPLICABLE TO THE CONSERVATION OF OIL AND GAS

§ 85.041. Acts Prohibited in Violation of Laws, Rules, and Orders

(a) The purchase, acquisition, or sale, or the transporting, refining, processing, or handling in any other way, of oil or gas, produced in whole or in part in violation of any oil or gas conservation statute of this state or of any rule or order of the commission under such a statute, is prohibited.

(b) The purchase, acquisition, or sale, or the transporting, refining, processing, or handling in any other way, of any product of oil or gas which is derived in whole or in part from oil or gas or any product of either, which was in whole or part produced, purchased, acquired, sold, transported, refined, processed, or handled in any other way, in violation of any oil or gas conservation statute of

this state, or of any rule or order of the commission under such a statute, is prohibited.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.042. Rules and Orders

(a) The commission may promulgate and enforce rules and orders necessary to carry into effect the provisions of Section 85.041 of this code and to prevent that section's violation.

(b) When necessary, the commission shall make and enforce rules either general in their nature or applicable to particular fields for the prevention of actual waste of oil or operations in the field dangerous to life or property.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.043. Application of Certain Rules and Orders

If the commission requires a showing that refined products were manufactured from oil legally produced, the requirement shall be of uniform application throughout the state; provided that, if the rule or order is promulgated for the purpose of controlling a condition in any local area or preventing a violation in any local area, then on the complaint of a person that the same or similar conditions exist in some other local area and the promulgation and enforcement of the rule could be beneficially applied to that additional area, the commission shall determine whether or not those conditions do exist, and if it is shown that they do, the rule or order shall be enlarged to include the additional area.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.044. Exempt Purchases

The provisions of Sections 85.041 through 85.043 of this code do not apply to the purchase of products of oil if made by the ultimate consumer from a retail distributor of the products.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.045. Waste Illegal and Prohibited

The production, storage, or transportation of oil or gas in a manner, in an amount, or under conditions that constitute waste is unlawful and is prohibited.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.046. Waste

(a) The term "waste," among other things, specifically includes:

(1) operation of any oil well or wells with an inefficient gas-oil ratio and the commission may

determine and prescribe by order the permitted gas-oil ratio for the operation of oil wells;

(2) drowning with water a stratum or part of a stratum that is capable of producing oil or gas or both in paying quantities;

(3) underground waste or loss, however caused and whether or not the cause of the underground waste or loss is defined in this section;

(4) permitting any natural gas well to burn wastefully;

(5) creation of unnecessary fire hazards;

(6) physical waste or loss incident to or resulting from drilling, equipping, locating, spacing, or operating a well or wells in a manner that reduces or tends to reduce the total ultimate recovery of oil or gas from any pool;

(7) waste or loss incident to or resulting from the unnecessary, inefficient, excessive, or improper use of the reservoir energy, including the gas energy or water drive, in any well or pool; however, it is not the intent of this section or the provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, to require repressuring of an oil pool or to require that the separately owned properties in any pool be unitized under one management, control, or ownership;

(8) surface waste or surface loss, including the temporary or permanent storage of oil or the placing of any product of oil in open pits or earthen storage, and other forms of surface waste or surface loss including unnecessary or excessive surface losses, or destruction without beneficial use, either of oil or gas;

(9) escape of gas into the open air in excess of the amount necessary in the efficient drilling or operation of the well from a well producing both oil and gas;

(10) production of oil in excess of transportation or market facilities or reasonable market demand, and the commission may determine when excess production exists or is imminent and ascertain the reasonable market demand; and

(11) surface or subsurface waste of hydrocarbons, including the physical or economic waste or loss of hydrocarbons in the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility.

(b) Notwithstanding the provisions contained in this section or elsewhere in this code or in other statutes or laws, the commission may permit production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas where the commission, after notice and hearing, has found that producing oil or gas or oil and gas in a commingled

state will prevent waste, promote conservation, or protect correlative rights.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 673, ch. 300, § 1, eff. May 29, 1979; Acts 1981, 67th Leg., p. 3166, ch. 830, § 2, eff. June 17, 1981.]

§ 85.047. Exclusion From Definition of Waste

The use of gas produced from an oil well within the permitted gas-oil ratio for manufacture of natural gasoline shall not be included in the definition of waste.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.048. Authority to Limit Production

(a) Under the provisions of Subsection (10), Section 85.046 of this code, the commission shall not restrict the production of oil from any new field brought into production by exploration until the total production from that field is 10,000 barrels of oil a day in the aggregate.

(b) The commission's authority to restrict production from a new field under other provisions of Section 85.046 of this code is not limited by this section.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.049. Hearing

(a) On verified complaint of any person interested in the subject matter that waste of oil or gas is taking place in this state or is reasonably imminent, or on its own initiative, the commission, after proper notice, may hold a hearing to determine whether or not waste is taking place or is reasonably imminent and if any rule or order should be adopted or if any other action should be taken to correct, prevent, or lessen the waste.

(b) The hearing shall be held at the time and place determined by the commission.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.050. Procedure at Hearing

(a) At the hearing, interested parties shall be entitled to be heard and to introduce evidence and require the attendance of witnesses.

(b) The production of evidence may be required as provided by law.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.051. Adoption of Rule or Order

If the commission finds at the hearing that waste is taking place or is reasonably imminent, it shall adopt a rule or order in the manner provided by law

as it considers reasonably required to correct, prevent, or lessen the waste.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.052. Compliance With Rule or Order

From and after the promulgation of a rule or order of the commission, it is the duty of each person affected by the rule or order to comply with it.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.053. Distribution, Proration, and Apportionment of Allowable Production

(a) If a rule or order of the commission limits or fixes in a pool or portion of a pool the production of oil, or the production of gas from wells producing gas only, the commission shall distribute, prorate, or otherwise apportion or allocate the allowable production among the various producers on a reasonable basis.

(b) When, as provided in Subsection (b) of Section 85.046 or Subsection (b) of Section 86.012 of this code, as amended, the commission has permitted production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas, the commission may distribute, prorate, apportion, or allocate the production of such commingled separate multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas as if they were a single pool; provided, however, that:

(i) the commingling and distribution, proration, apportionment, or allocation of separate accumulations with commission established discovery dates after January 1, 1940, and prior to June 1, 1945, shall not serve to expand, add to, or extend the vertical or areal extent of any single pool;

(ii) such commingling shall not cause the allocation of allowable production from a well producing from any separate accumulation or accumulations to be less than that which would result from the commission applying the provisions of Section 86.095 of this code to such accumulation or accumulations;

(iii) the allocation of the allowable for such commingled production shall be based on not less than two factors which the Railroad Commission shall take into account as directed by Section 86.089 of this code; and

(iv) No gas well in any field falling within the classification under Subdivision (i) above where commingled separate accumulations of gas are being prorated under the authority granted by this Subsection (b) shall be assigned an allowable in excess of its production during the most recent production period reported to the commission and in the absence of any reported production the

assigned allowable shall not exceed the open-flow potential of such well as reported to the commission; provided, however, that the commission may, if it finds special conditions require such, make a greater assignment.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2578, ch. 688, § 1, eff. June 16, 1981.]

§ 85.054. Allowable Production of Oil

(a) To prevent unreasonable discrimination in favor of one pool as against another, and on written complaint and proof of such discrimination, the commission may allocate or apportion the allowable production of oil on a fair and reasonable basis among the various pools in the state.

(b) In allocating or ascertaining the reasonable market demand for the entire state, the reasonable market demand of one pool shall not be discriminated against in favor of another pool.

(c) The commission shall determine the reasonable market demand of the respective pool as the basis for determining the allotments to be assigned to the respective pool so that discrimination may be prevented.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.055. Allowable Production of Gas

(a) If full production from wells producing gas only from a common source of supply of gas in this state is in excess of the reasonable market demand, the commission shall inquire into the production and reasonable market demand for the gas and shall determine the allowable production from the common source of supply.

(b) The allowable production from a common source of supply is that portion of the reasonable market demand that can be produced without waste.

(c) The commission shall allocate, distribute, or apportion the allowable production from the common source of supply among the various producers on a reasonable basis and shall limit the production of each producer to the amount allocated or apportioned to the producer.

(d) When, as provided in Subsection (b) of Section 85.046 or Subsection (b) of Section 86.012 of this code, as amended, the commission has permitted production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas, the commission may allocate, distribute, or apportion the production of such commingled separate multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas as if they were a single common source of supply; provided, however, that:

(i) the commingling and distribution, proration, apportionment, or allocation of separate accumu-

lations with commission established discovery dates after January 1, 1940, and prior to June 1, 1945, shall not serve to expand, add to, or extend the vertical or areal extent of any single common source of supply;

(ii) such commingling shall not cause the allocation of allowable production from a well producing from any separate accumulation or accumulations to be less than that which would result from the commission applying the provisions of Section 86.095 to such accumulation or accumulations;

(iii) the allocation of the allowable for such commingled production shall be based on not less than two factors which the Railroad Commission shall take into account as directed by Section 86.089 of this code; and

no gas well in any field falling within the classification under (i) above where commingled separate accumulations of gas are being prorated under the authority granted by this Subsection (d) shall be assigned an allowable in excess of its production during the most recent production period reported to the commission and in the absence of any reported production the assigned allowable shall not exceed the open-flow potential of such well as reported to the commission; provided, however, that the commission may, if it finds special conditions require such, make a greater assignment.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2579, ch. 688, § 2, eff. June 16, 1981.]

§ 85.056. Public Interest

In the administration of the provisions of this chapter that were formerly a part of Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, the commission shall take into consideration and protect the rights and interests of the purchasing and consuming public in oil and all its products, such as gasoline and lubricating oil.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.057. Restriction on Unexplored Territory

The provisions of this chapter that were formerly a part of Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, shall not be construed to grant the commission any authority to restrict or in any manner limit the drilling of wells to explore for oil or gas or both in territory that is not known to produce either oil or gas.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.058. Commission Inquiry and Determination

From time to time, the commission shall inquire into the production, storage, transportation, refining, reclaiming, treating, marketing, and processing

of oil and gas, and the reasonable market demand for oil and gas, so that it may determine whether or not waste exists or is imminent or whether the oil and gas conservation laws of this state or the rules and orders of the commission promulgated under those laws are being violated.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.059. Records

Each person who produces, stores, transports, refines, reclaims, treats, markets, or processes oil or gas or the products of either shall keep in this state accurate records of the amount of oil or gas which such person produced, stored, transported, refined, reclaimed, treated, marketed, or processed and of the source from which the person produced, obtained, or received the oil or gas or the products of either and the disposition made of them.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.060. Sworn Statements and Reports

The commission may require a person who produces, stores, transports, refines, reclaims, treats, markets, or processes oil or gas or the products of either to make and file with the commission sworn statements or reports as to facts within his knowledge or possession pertaining to the reasonable market demand for oil and to the production, storage, transportation, refining, reclaiming, treating, marketing, or processing of oil or gas and the products of either. The report shall include those facts enumerated in Section 85.059 of this code.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.061. Inspection and Gauging

The commission may require any well, lease, refinery, plant, tank or storage, pipeline, or gathering line that belongs to or is under the control of a person who produces, stores, transports, refines, reclaims, treats, markets, or processes oil or gas or the products of either to be inspected or gauged by the agents of the commission whenever and as often as and for such periods as the commission considers necessary.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.062. Examination of Books and Records

The commission and its agents and the attorney general and his assistants and representatives may examine the books and records of a person who produces, stores, transports, refines, reclaims, treats, markets, or processes oil or gas or the products of either as often as considered necessary for the purpose of determining the facts concerning

matters covered by Sections 85.058 through 85.061 of this code.

[Acts 1977, 65th Leg., p. 2520, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.063. Violations by Corporations

(a) The failure of a corporation chartered under the laws of this state to comply with the provisions of Sections 85.059 through 85.062 of this code and to keep the records required by Section 85.059 of this code in this state or the refusal to permit officers designated in Section 85.062 of this code to inspect and examine the records required by Section 85.059 of this code shall constitute grounds for forfeiture of the corporation's charter rights and privileges and dissolution of its corporate existence.

(b) The failure of a foreign corporation to comply with the provisions of Sections 85.059 through 85.062 of this code and to keep the records required by Section 85.059 of this code in this state or the refusal to permit officers designated in Section 85.062 of this code to inspect and examine the records required by Section 85.059 of this code shall be grounds for enjoining and forever prohibiting such corporation from doing business in this state.

[Acts 1977, 65th Leg., p. 2520, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.064. Action Against Corporation

(a) If he determines that the public interest requires it, the attorney general shall institute suit or other appropriate action in Travis County for forfeiture of charter rights of a domestic corporation or to enjoin a foreign corporation from doing business in this state when a corporation is deemed guilty of violating the provisions of Sections 85.059 through 85.062 of this code. The attorney general may take this action on his own motion and without leave or order of any judge or court.

(b) On judgment against a defendant for violating the provisions of Sections 85.059 through 85.062 of this code, the court may, if in its judgment the public interest requires it, forfeit the charter rights of a defendant domestic corporation or enjoin a defendant foreign corporation from doing business in this state.

[Acts 1977, 65th Leg., p. 2520, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.065 to 85.120 reserved for expansion]

SUBCHAPTER D. MARGINAL WELLS

§ 85.121. Definitions

(a) In this subchapter, "marginal well" means an oil well that is incapable of producing its maximum capacity of oil except by pumping, gas lift, or other means of artificial lift, and which well so equipped is capable, under normal unrestricted operating con-

ditions, of producing such daily quantities of oil, as provided in this subchapter, that would be damaged, or result in a loss of production ultimately recoverable, or cause the premature abandonment of the well, if its maximum daily production were artificially curtailed.

(b) As used in Subsection (a), Section 85.121 and Section 85.122 of this code, "gas lift" means gas lift by the use of gas not in solution with oil produced.

[Acts 1977, 65th Leg., p. 2520, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.122. Wells Considered as Marginal Wells

Wells that are considered marginal wells include any oil well in this state that is incapable of producing its maximum daily capacity of oil except by pumping, gas lift, or other means of artificial lift and having:

(1) when producing from a depth of 2,000 feet or less, a maximum daily capacity for production of 10 barrels or less, averaged over the preceding 10 consecutive days of stabilized production;

(2) when producing from a horizon deeper than 2,000 feet and less in depth than 4,000 feet, a maximum daily capacity for production of 20 barrels or less, averaged over the preceding 10 consecutive days of stabilized production;

(3) when producing from a horizon deeper than 4,000 feet and less in depth than 6,000 feet, a maximum daily capacity for production of 25 barrels or less, averaged over the preceding 10 consecutive days of stabilized production;

(4) when producing from a horizon deeper than 6,000 feet and less in depth than 8,000 feet, a maximum daily capacity for production of 30 barrels or less, averaged over the preceding 10 consecutive days of stabilized production; or

(5) when producing from a horizon deeper than 8,000 feet, a maximum daily capacity for production of 35 barrels or less, averaged over the preceding 10 consecutive days of stabilized production.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 325, ch. 73, § 1, eff. May 3, 1983.]

§ 85.123. Curtailment of Marginal Well Production as Waste

To artificially curtail the production of a marginal well below the marginal limit as set out in Sections 85.121 through 85.122 of this code before the marginal well's ultimate plugging and abandonment is declared to be waste.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.124. Rules and Orders Restricting Marginal Wells

No rule or order of the commission or of any other constituted legal authority shall be adopted requiring the restriction of the production of a marginal well.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.125. Effect of Other Subchapters

None of the provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, or Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, authorize or may be construed to limit, modify, or repeal the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.126 to 85.160 reserved for expansion]

SUBCHAPTER E. CERTIFICATE OF COMPLIANCE

§ 85.161. Well Owners and Operators Certificates

The owner or operator of an oil or gas well, before connecting with any oil or gas pipeline, shall secure from the commission a certificate showing compliance with the oil or gas conservation laws of the state and conservation rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.162. Prohibited Connection

No operator of a pipeline or other carrier shall connect with any oil or gas well until the owner or operator of the well furnishes a certificate from the commission that the owner or operator has complied with the conservation laws of this state and the rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.163. Temporary Connection

The provisions of this subchapter do not prevent a temporary connection with a well in order to take care of production and prevent waste until opportunity shall have been given the owner or operator of the well to secure the certificate.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.164. Cancellation of Certificate

The commission may cancel any certificate of compliance issued under the provisions of this subchapter if it appears that the owner or operator of a well covered by the provisions of the certificate, in the operation of the well or the production of oil or gas from the well, has violated or is violating the oil and gas conservation laws of this state or rules or orders of the commission adopted under those laws.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.165. Effect of Cancellation on Operator of Pipeline or Other Carrier

(a) On notice from the commission to the operator of a pipeline or other carrier connected to an oil or gas well that the certificate of compliance pertaining to that well has been cancelled, the operator of the pipeline or other carrier shall disconnect from the well.

(b) It shall be unlawful for the operator of a pipeline or other carrier to transport oil from the well until a new certificate of compliance has been issued by the commission.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.166. Effect of Cancellation on Owner or Operator of Well

On notice from the commission that a certificate of compliance for an oil or gas well has been cancelled, it shall be unlawful for the owner or operator of the well to produce oil or gas from the well until a new certificate of compliance covering the well has been issued by the commission.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.167 to 85.200 reserved for expansion]

SUBCHAPTER F. RULES AND ORDERS OF THE COMMISSION

§ 85.201. Adoption of Rules and Orders

The commission shall make and enforce rules and orders for the conservation of oil and gas and prevention of waste of oil and gas.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.202. Purposes of Rules and Orders

(a) The rules and orders of the commission shall include rules and orders:

- (1) to prevent waste, as defined in Section 85.046 of this code, of oil and gas in drilling and producing operations and in the storage, piping, and distribution of oil and gas;

- (2) to require dry or abandoned wells to be plugged in a manner that will confine oil, gas, and water in the strata in which they are found and prevent them from escaping into other strata;

- (3) for the drilling of wells and preserving a record of the drilling of wells;

- (4) to require wells to be drilled and operated in a manner that will prevent injury to adjoining property;

- (5) to prevent oil and gas and water from escaping from the strata in which they are found into other strata;

- (6) to provide rules for shooting wells and for separating oil from gas;

- (7) to require records to be kept and reports made; and

- (8) to provide for issuance of permits, tenders, and other evidences of permission when the issuance of the permits, tenders, or permission is necessary or incident to the enforcement of the commission's rules or orders for the prevention of waste.

(b) The commission shall do all things necessary for the conservation of oil and gas and prevention of waste of oil and gas and may adopt other rules and orders as may be necessary for those purposes.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.2021. Drilling Permit Fee

(a) With each application or materially amended application for a permit to drill, deepen, plug back, or reenter a well the applicant shall submit to the commission a fee of \$100.

(b) The drilling permit fee may not be refunded.

(c) Drilling permit fees collected under this section shall be deposited in the state well plugging fund.

[Acts 1983, 68th Leg., p. 5260, ch. 967, § 7, eff. Sept. 1, 1983.]

§ 85.203. Considerations in Adopting Rules and Orders to Prevent Waste

The commission may consider any or all of the definitions of waste stated in Section 85.046 of this code, whenever the facts, circumstances, or conditions make them applicable, in adopting rules or orders to prevent waste of oil or gas.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.204. Prohibited Rules and Orders

The commission is not authorized to adopt a rule or order or to make a determination or holding that any mode, manner, or process of refining oil constitutes waste.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.205. Notice and Hearing

No rule or order pertaining to the conservation of oil and gas or to the prevention of waste of oil and gas may be adopted by the commission except after notice and hearing as provided by law.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.206. Emergency Order

(a) If the commission finds an emergency to exist, that in the commission's judgment requires the adoption of an order without giving notice or holding a hearing, the emergency order may be adopted and shall be valid as though notice had been given and a hearing held.

(b) The emergency order shall remain in force no longer than 15 days from its effective date.

(c) The emergency order shall expire, in any event, at the time an order relating to the same subject matter and adopted after proper notice and hearing becomes effective.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.207. Effect of Amendment, Repeal, or Expiration of a Rule or Order

The amendment, repeal, or expiration of a rule or order of the commission adopted under the provisions of this chapter that were formerly a part of Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, or the provisions of Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, shall not have the effect of releasing or discharging from liability, penalty, or forfeiture any person violating the rule or order before the effective date of the amendment, repeal, or expiration. Prosecutions and suits for these violations, liabilities, penalties, and forfeitures shall be instituted and proceeded with in all respects as if the rule or order had not been amended or repealed, or had not expired.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.208 to 85.240 reserved for expansion]

SUBCHAPTER G. SUITS CHALLENGING THE VALIDITY OF LAWS AND ORDERS**§ 85.241. Suits by Interested Persons**

Any interested person who is affected by the conservation laws of this state or orders of the commission relating to oil or gas and the waste of oil or gas, and who is dissatisfied with any of these laws or orders, may file suit against the commission or its members in a court of competent jurisdiction

in Travis County to test the validity of the law or order.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.242. Expeditious Trial

A suit brought under Section 85.241 of this code shall be advanced for trial and shall be determined as expeditiously as possible. No postponement or continuance shall be granted except for reasons considered imperative by the court.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.243. Burden of Proof

In the trial of a suit brought under Section 85.241 of this code, the burden of proof shall be on the party complaining of the law or order, and the law or order is deemed prima facie valid.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.244. Conditions for Injunctive Relief

No temporary restraining order, temporary or permanent injunction, or other form of injunctive relief may be granted against the commission, its members, agents, and representatives to restrain it or them from enforcing any rule or order adopted by the commission under the oil and gas conservation laws of this state or from enforcing any of these laws unless notice is given to the commission and a hearing is held as provided in this subchapter.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.245. Notice to Commission

(a) At the time a petition or application is filed requesting a temporary restraining order or any form of temporary injunctive relief, the clerk of the court in which the petition or application is filed shall issue notice in writing to the commission.

(b) The notice shall include:

- (1) the docket number;
- (2) the style of the case; and
- (3) a brief statement of the nature of the suit.

(c) The notice shall be served on the commission in Travis County by delivering a copy of the citation to the commission, a member of the commission, or the secretary of the commission for the service of other citations.

(d) Five days after the citation has been served a hearing may be held on the petition or application.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.246. Intervention in Suit

In the discretion of the court, any person who is interested in the subject matter of the suit may intervene.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.247. Rules and Orders Prima Facie Valid

The rule or order complained of in the suit is prima facie valid, and the use and introduction of the verified petition of the plaintiff shall not be sufficient to overcome the prima facie validity of the rule or order or to authorize the court to grant any injunctive relief against the enforcement of the rule or order.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.248. Bond

Before an order granting injunctive relief against an oil and gas conservation law, rule, or order of the commission becomes effective, the plaintiff shall be required by the court to execute a bond with good and sufficient sureties in a reasonably sufficient amount determined by the court to indemnify any persons whom the court may find from the facts proven will suffer damage as a result of the violation of the law, rule, or order in question. The persons shall be named in the order of the judge at the time the amount of the bond is fixed by the court and entered in the record.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.249. Conditions of Bond

(a) In determining the amount of the bond, the judge shall consider all facts and circumstances surrounding the parties and the ability of the plaintiff to make the bond so that the judge can determine the amount and reasonableness of the bond under the facts and circumstances.

(b) A bond made or executed by a bonding or surety company shall be by a company authorized to do business in Texas.

(c) The bond shall be approved by the judge and shall be for the use and benefit of and may be sued on by any person named in the order who suffers damage as a result of violation of the law, rule, or order.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.250. Changing Amount, Parties, and Sureties

On a motion and for good cause shown, and after notice to the parties, the court periodically may:

- (1) increase or decrease the amount of the bond;

- (2) add new beneficiaries; and

- (3) require new and additional sureties that the facts may justify.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.251. Suits on Bonds

A suit on a bond must be instituted within six months from the date of the final determination of the validity in whole or in part of the rule or order.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.252. Inadmissible Evidence

A finding by the court that any party is likely to suffer damage is not admissible as evidence of damages in a suit on the bond.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.253. Appeal

After notice and hearing on an application for injunctive relief, either party to the suit is entitled to appeal the judgment or order granting or refusing the temporary restraining order, temporary or permanent injunction, or other form of injunctive relief or granting or overruling a motion to dissolve the temporary restraining order, temporary or permanent injunction, or other form of injunctive relief.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.254. Appeal Has Precedence

The appeal is returnable at once to the appellate court and the action appealed shall have precedence in the appellate court over all cases, proceedings, and causes of a different character that are pending.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.255. Early Decision by Court of Appeals

The court of appeals shall decide the question in the appeal at as early a date as possible.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 92, eff. Sept. 1, 1981.]

§ 85.256. Appeal Procedures

The provisions and requirements of Article 4662, Revised Civil Statutes of Texas, 1925, as amended, and Rule 385 of the Texas Rules of Civil Procedure, as amended, relating to temporary injunctions, apply to appeals from any order granting or refusing a temporary restraining order, or granting or over-

ruling a motion to dissolve a temporary restraining order under the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.257. Certified Questions and Writs of Error

(a) If a question is certified or writ of error requested or granted to the supreme court, the supreme court shall set the cause for hearing immediately and shall decide the cause at as early a date as possible.

(b) The cause shall have precedence over all other causes, proceedings, and causes of a different character in the court.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.258. Authority of Court of Appeals to Issue Writs

The court of appeals and its judges have the jurisdiction to issue writs of prohibition, mandamus, and injunction to prevent the enforcement of any order or judgment of a trial court or judge who grants any type of injunctive relief without notice and hearing in violation of the requirements of Sections 85.244 and 85.245 of this code.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 93, eff. Sept. 1, 1981.]

§ 85.259. Issuance of Writs by Court of Appeals

If it appears that the provisions of Sections 85.244 and 85.245 of this code have not been complied with, then on proper application from the commission to the court of appeals having jurisdiction, the court shall issue instant the necessary writs of prohibition, mandamus, or injunction to prohibit and restrain the trial judge from enforcing or attempting to enforce the provisions of the injunction issued by him and to prohibit and restrain the party or parties in whose favor the order is entered from acting or attempting to act under the protection of the order or from violating the law, rule, or order of the commission attacked.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 94, eff. Sept. 1, 1981.]

[Sections 85.260 to 85.290 reserved for expansion]

SUBCHAPTER H. RECEIVERSHIP

§ 85.291. Request for Receiver

If a rule or order of the commission has been finally adjudicated to be valid in whole or part in a suit to which the commission is a party, and if after that time a party to the suit or other proceedings in which the rule or order was declared valid violates the rule, order, or judgment or shall thereafter use

or permit to be used any property owned or controlled by him in violation of the rule, order, or judgment, the commission shall make application to the judge of the trial court setting out the rule, order, or judgment and stating that the party subsequent to the date of the judgment violated or is violating the rule, order, or judgment and requesting that a receiver be appointed as provided in this subchapter.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.292. Appointment of Receiver and Bond

After an application is submitted as provided in Section 85.291 of this code, the judge of the trial court, after notice and hearing, may appoint a receiver of the property involved or used in violation of the rule, order, or judgment and shall set a proper bond for the receiver.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.293. Duties of Receiver

As soon as the receiver is qualified, he shall take possession of the property and shall perform his duties as receiver of the property under the orders of the court, strictly observing the rule, order, or judgment.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.294. Dissolution of Receivership

A party whose property is placed in receivership may move to dissolve the receivership and to discharge the receiver on the terms the court may prescribe.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.295 to 85.320 reserved for expansion]

SUBCHAPTER I. DAMAGES

§ 85.321. Suit for Damages

A party who owns an interest in property or production that may be damaged by another party violating the provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, or another law of this state prohibiting waste or a valid rule or order of the commission may sue for and recover damages and have any other relief to which he may be entitled at law or in equity.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.322. Proceedings Not to Impair Suit for Damages

None of the provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, no suit by or against the commission, and no penalties imposed on or claimed against any party violating a law, rule, or order of the commission shall impair or abridge or delay a cause of action for damages or other relief that an owner of land or a producer of oil or gas, or any other party at interest, may have or assert against any party violating any rule or order of the commission or any judgment under this chapter.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.323 to 85.350 reserved for expansion]

SUBCHAPTER J. INJUNCTIONS

§ 85.351. Suit for Injunction

(a) If it appears that a person is violating or threatening to violate the provisions of this chapter that were formerly a part of Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, or Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, or any rule or order of the commission adopted under those laws, the commission, through the attorney general, shall bring suit in the name of the state to restrain the violation or threatened violation.

(b) The suit shall be brought against the person violating or threatening to violate the law, rule, or order in a court of competent jurisdiction in Travis County, in the county in which the violation occurred, or in the county of residence of any defendant.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5255, ch. 967, § 2, eff. Sept. 1, 1983.]

For applicability of 1983 amendatory act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

§ 85.352. Types of Court Orders

In the suit, the commission in the name of the state may obtain prohibitory and mandatory injunctions, including temporary restraining orders and temporary injunctions, that the facts may warrant.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.353. Appointment of Receiver

(a) The violation by a person of any injunction granted under the provisions of this subchapter shall be sufficient grounds for appointment by the

court of a receiver to take charge of the person's property and to exercise authority that in the judgment of the court is necessary to bring about compliance with the injunction. The court may appoint the receiver either on its own motion or on motion of the commission in the name of the state.

(b) No receiver may be appointed until after notice is given and a hearing is held.

(c) The authority to appoint a receiver is in addition to and cumulative of the authority to punish for contempt.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.354 to 85.380 reserved for expansion]

SUBCHAPTER K. PENALTIES, IMPRISONMENT, AND CONFINEMENT

§ 85.381. Penalty for Violation of Laws, Rules, and Orders

(a) In addition to being subject to any forfeiture provided by law and to any penalty imposed by the commission for contempt for violation of its rules or orders, any person who violates the provisions of Sections 85.045 and 85.046 of this code, Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, or any rule or order of the commission promulgated under those laws is subject to a penalty of not more than:

- (1) \$10,000 when the provision, rule, or order pertains to safety or the prevention or control of pollution; or
- (2) \$1,000 when the provision, rule, or order does not pertain to safety or the prevention or control of pollution.

(b) The applicable maximum penalty may be assessed for each and every day of violation and for each and every act of violation.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, § 1, eff. Sept. 1, 1983.]

Section 18 of the 1983 amendatory act provides:

"This Act takes effect September 1, 1983, and applies only to offenses and violations committed on or after that date. Offenses or violations committed before the effective date of this Act are subject to prosecution under that law as it existed when the offense or violation occurred, and that law is continued in effect for that purpose. For the purpose of this Act, an offense or violation is committed before the effective date of this Act if any element of the offense or violation occurs before that effective date."

§ 85.382. Venue

The penalty provided in Section 85.381 of this code shall be recovered in a court of competent jurisdiction in Travis County, in the county in which

the violation occurred, or in the county of the residence of any defendant.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, § 1, eff. Sept. 1, 1983.]

For applicability of 1983 amendatory act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

§ 85.383. Suit

By direction of the commission, the suit to recover the penalty shall be instituted and conducted in the name of the state by the attorney general or by the county or district attorney in the county in which the suit is brought.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.384. Effect of Recovery or Payment of Penalty

The recovery or payment of the penalty shall not authorize the violation of any provision of Section 85.045 or 85.046 of this code, Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, or any rule or order of the commission adopted under those laws.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.385. Persons Aiding or Abetting Violation

Any person who aids or abets any other person in violating Section 85.045 or 85.046 of this code, Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, or any rule or order adopted by the commission under those laws is subject to the same penalties as provided in Section 85.381 of this code.

[Acts 1977, 65th Leg., p. 2529, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.386. Forging Names on Permits and Tenders

A person shall be imprisoned in the penitentiary for not less than two nor more than five years if he:

(1) forges the name of an agent, officer, or employee of the commission to a permit or tender of the commission relating to oil or gas or any product or by-product of oil or gas;

(2) forges the name of any person to such a tender or permit; or

(3) knowingly uses a forged instrument to induce another to handle or transport oil or gas or any product or by-product of oil or gas.

[Acts 1977, 65th Leg., p. 2529, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.387. Procuring Tenders and Permits

A person shall be imprisoned in the penitentiary for not less than two nor more than five years if he:

(1) knowingly procures or causes an agent, officer, or employee of the commission to approve or issue a permit or tender of the commission relating to oil or gas or any product or by-product of oil or gas that includes a statement or representation that is false and that materially misrepresents the true facts respecting the oil or gas or any product or by-product of either; or

(2) procures or causes an agent, officer, or employee of the commission to issue to him a permit or tender relating to oil or gas or any product or by-product of either with the intent to defraud.

[Acts 1977, 65th Leg., p. 2529, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.388. Possessing a Forged Permit or Tender

Any person who knowingly has in his possession a forged tender or permit of the commission relating to oil or gas or any product or by-product of oil or gas for the purpose of transporting, handling, or selling oil or gas shall be guilty of a misdemeanor and on conviction shall be fined not less than \$25 nor more than \$1,000 or shall be confined in the county jail for not less than 30 days nor more than one year, or both.

[Acts 1977, 65th Leg., p. 2529, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.389. Criminal Penalty

(a) A person who is not the owner or operator of an oil well, gas well, or oil and gas well, a purchaser under contract of oil, gas, or oil and gas from a well, a gatherer with written authorization from the owner, operator, or purchaser, or an authorized representative of the commission who knowingly destroys, breaks, removes, or otherwise tampers with or attempts to destroy, break, remove, or otherwise tamper with any cap, seal, or other device placed on an oil well, gas well, oil and gas well, or associated oil or gas gathering equipment by the owner or operator for the purpose of controlling or limiting the operation of the well or associated equipment commits an offense.

(b) An offense under this section is a felony of the third degree.

[Acts 1983, 68th Leg., p. 5230, ch. 960, § 1, eff. Sept. 1, 1983.]

CHAPTER 86. REGULATION OF NATURAL GAS

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SUBCHAPTER A. GENERAL PROVISIONS

§ 86.001. Declaration of Policy

In recognition of past, present, and imminent evils occurring in the production and use of gas as a result of waste in this production and use of gas in the absence of correlative opportunities of owners

of gas in a common reservoir to produce and use the gas, the provisions of this chapter are enacted for the protection of public and private interests against these evils by prohibiting waste and compelling ratable production.

[Acts 1977, 65th Leg., p. 2531, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.002. Definitions

In this chapter:

- (1) "Oil" means crude petroleum oil.
- (2) "Gas" means natural gas.
- (3) "Commission" means the Railroad Commission of Texas.
- (4) "Common reservoir" means all or part of any oil or gas field or oil and gas field that comprises and includes any area that is underlaid or that, from geological or other scientific data or experiments or from drilling operations or other evidence, appears to be underlaid by a common pool or accumulation of oil or gas or oil and gas.
- (5) "Gas well" means a well that:
 - (A) produces gas not associated or blended with oil at the time of production;
 - (B) produces more than 100,000 cubic feet of gas to each barrel of oil from the same producing horizon; or
 - (C) produces gas from a formation or producing horizon productive of gas only encountered in a well bore through which oil also is produced through the inside of another string of casing.
- (6) "Oil well" means any well that produces one barrel or more of oil to each 100,000 cubic feet of gas.
- (7) "Dry gas" means gas produced from a stratum that does not produce oil.
- (8) "Sour gas" means gas:
 - (A) containing more than one and one-half grains of hydrogen sulphide per 100 cubic feet;
 - (B) containing more than 30 grains of total sulphur per 100 cubic feet; or
 - (C) which in its natural state is found by the commission to be unfit for use in generating light or fuel for domestic purposes.
- (9) "Sweet gas" means all gas except sour gas and casinghead gas.
- (10) "Casinghead gas" means any gas or vapor indigenous to an oil stratum and produced from the stratum with oil.
- (11) "Natural gasoline" means gasoline manufactured from casinghead gas or from any gas.
- (12) "Cubic foot of gas" or "standard cubic foot of gas" means the volume of gas, including natural and casinghead gas, contained in one cubic foot of space at a standard pressure base of 14.65 pounds per square inch absolute and at a standard temperature base of 60 degrees Fahrenheit,

and if the conditions of pressure and temperature differ from this standard, conversion of the volume from the differing conditions to the standard conditions shall be made in accordance with the ideal gas laws, corrected for deviation.

[Acts 1977, 65th Leg., p. 2531, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.003. Determination of Separate Wells

If oil or gas, or both, is produced through different strings of casing set in the same well bore, the inner string through which oil or gas, or both, is produced shall be regarded as one well, and each successive additional string of casing through which oil or gas, or both, is produced from a different producing horizon through the same well bore shall be regarded as another well.

[Acts 1977, 65th Leg., p. 2532, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.004. Applicability

The provisions in this chapter do not impair the authority of the commission to prevent waste under the oil and gas conservation laws of this state and do not repeal, modify, or impair any of the provisions relating to oil and gas conservation in Sections 85.002, 85.041 through 85.055, 85.056 through 85.064, 85.125, 85.201 through 85.207, 85.241 through 85.243, 85.249 through 85.252, and 85.381 through 85.385 of this code and Subchapters E and J of Chapter 85 of this code.

[Acts 1977, 65th Leg., p. 2532, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 86.005 to 86.010 reserved for expansion]

SUBCHAPTER B. WASTE OF GAS

§ 86.011. Prohibition Against Waste

The production, transportation, or use of gas in a manner, in an amount, or under conditions which constitute waste is unlawful and is prohibited.

[Acts 1977, 65th Leg., p. 2532, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.012. Definition of Waste

(a) The term "waste" includes:

- (1) the operation of an oil well or wells with an inefficient gas-oil ratio;
- (2) the drowning with water of a stratum or part of a stratum capable of producing gas in paying quantities;
- (3) permitting a gas well to burn wastefully;
- (4) the creation of unnecessary fire hazards;
- (5) physical waste or loss incident to or resulting from so drilling, equipping, or operating a well or wells as to reduce or tend to reduce the ultimate recovery of gas from any pool;
- (6) the escape of gas from a well producing both oil and gas into the open air in excess of the

amount that is necessary in the efficient drilling or operation of the well;

(7) the production of gas in excess of transportation or market facilities or reasonable market demand for the type of gas produced;

(8) the use of gas for the manufacture of carbon black without first having extracted the natural gasoline content from the gas, except it shall not be necessary to first extract the natural gasoline content from the gas where it is utilized in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet of gas;

(9) the use of sweet gas produced from a gas well for the manufacture of carbon black unless it is used in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet and unless the sweet gas is produced from a well located in a common reservoir producing both sweet and sour gas;

(10) permitting gas produced from a gas well to escape into the air before or after the gas has been processed for its gasoline content, unless authorized as provided in Section 86.185 of this code;

(11) the production of natural gas from a well producing oil from a stratum other than that in which the oil is found unless the gas is produced in a separate string of casing from that in which the oil is produced;

(12) the production of more than 100,000 cubic feet of gas to each barrel of crude petroleum oil unless the gas is put to one or more of the uses authorized for the type of gas so produced under allocations made by the commission or unless authorized as provided in Section 86.185 of this code; and

(13) underground waste or loss however caused and whether or not defined in other subdivisions of this section.

(b) Notwithstanding the provisions contained in this section or elsewhere in this code or in other statutes or laws, the commission may permit production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas where the commission, after notice and hearing, has found that producing oil or gas or oil and gas in a commingled state will prevent waste, promote conservation, or protect correlative rights.

[Acts 1977, 65th Leg., p. 2532, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2695, ch. 871, art. II, § 8, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 674, ch. 300, § 2, eff. May 29, 1979.]

[Sections 86.013 to 86.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF
THE COMMISSION

§ 86.041. In General

The commission has broad discretion in administering the provisions of this chapter and may adopt any rule or order in the manner provided by law that it finds necessary to effectuate the provisions and purposes of this chapter.

[Acts 1977, 65th Leg., p. 2533, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.042. Rules and Orders

The commission shall adopt and enforce rules and orders to:

- (1) conserve and prevent the waste of gas;
- (2) prevent the waste of gas in drilling and producing operations and in the piping and distribution of gas;
- (3) require dry or abandoned wells to be plugged in a way that confines gas and water in the strata in which they are found and prevents them from escaping into other strata;
- (4) provide for drilling wells and preserving a record of them;
- (5) require wells to be drilled and operated in a manner that prevents injury to adjoining property;
- (6) prevent gas and water from escaping from the strata in which they are found into other strata;
- (7) require records to be kept and reports made;
- (8) provide for the issuance of permits and other evidences of permission when the issuance of the permit or permission is necessary or incident to the enforcement of its blanket grant of authority to make any rules necessary to effectuate the law; and
- (9) otherwise accomplish the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2533, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.043. Determining Gas-Oil Ratio

The commission may fix and determine the gas-oil ratio of all oil wells in the state but none of the provisions of this chapter may be construed to authorize the limitation of the production of marginal wells below the amount fixed by statute. If a restriction imposed by the commission on the production of oil from an oil well operates to increase the gas-oil ratio of the well so as to then classify it as a gas well under the provisions of this chapter,

the well nevertheless shall be considered to be an oil well.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 86.044 to 86.080 reserved for expansion]

SUBCHAPTER D. PRODUCTION OF GAS

§ 86.081. Regulation of Production

(a) For the protection of public and private interests, the commission shall prorate and regulate the daily gas well production from each common reservoir to:

(1) prevent waste; and

(2) adjust the correlative rights and opportunities of each owner of gas in a common reservoir to produce and use or sell the gas as permitted in this chapter.

(b) When, as provided in Subsection (b) of Section 85.046 or Subsection (b) of Section 86.012 of this code, as amended, the commission has permitted production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas, the commission may prorate, allocate, and regulate the production of such commingled, separate multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas as if they were a single common reservoir; provided, however, that:

(i) the commingling and distribution, proration, apportionment, or allocation of separate accumulations with commission established discovery dates after January 1, 1940, and prior to June 1, 1945, shall not serve to expand, add to, or extend the vertical or areal extent of any single common reservoir;

(ii) such commingling shall not cause the allocation of allowable production from a well producing from any separate accumulation or accumulations to be less than that which would result from the commission applying the provisions of Section 86.095 of this code to such accumulation or accumulations;

(iii) the allocation of the allowable for such commingled production shall be based on not less than two factors which the Railroad Commission shall take into account as directed by Section 86.089 of this code; and

no gas well in any field falling within the classification under Subdivision (i) above where commingled separate accumulations of gas are being prorated under the authority granted by this Subsection (b) shall be assigned an allowable in excess of its production during the most recent production period reported to the commission and in the absence of any reported production the assigned allowable shall not exceed the open-flow potential of such well as reported to the commission; provided, however,

that the commission may, if it finds special conditions require such, make a greater assignment.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2579, ch. 688, § 3, eff. June 16, 1981.]

§ 86.082. Exercise of Authority to Prevent Waste

The commission shall exercise its authority to prevent waste when the presence or imminence of waste is supported by a finding based on the evidence introduced at a hearing after proper notice.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.083. Exercise of Authority to Adjust Correlative Rights and Opportunities

The commission shall exercise its authority to adjust correlative rights and opportunities of each owner of gas in a common reservoir to produce and use or sell the gas when evidence introduced at a hearing after proper notice will support a finding made by the commission that the aggregate lawful volume of the open flow or daily potential capacity to produce of all gas wells located in a common reservoir is in excess of the daily reasonable market demand for gas from gas wells that may be produced from the common reservoir, to be used as permitted in this chapter.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.084. Determination of Status of Production

(a) The commission shall determine the status of gas production from all reservoirs in the state.

(b) If the commission finds that waste exists or is imminent in the production of gas from a reservoir, or that the capacity of the wells to produce gas from a reservoir exceeds the market demand for gas from the reservoir, the commission by proper order shall prorate and regulate the gas production from the reservoir on a reasonable basis.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.085. Determination of Demand and Volume

On or before the 20th day of each month, the commission, after notice and hearing, shall determine:

(1) the lawful market demand for gas to be produced from each reservoir during the following month; and

(2) the volume of gas that can be produced without waste from the reservoir and each well in the reservoir during the following month.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.086. Monthly Reservoir Allowable

After determining demand and volume of production as provided in Section 86.085 of this code, the commission shall fix the monthly reservoir allowable of gas to be produced from the reservoir at the lawful market demand for the gas or at the volume that can be produced from the reservoir without waste, whichever is the smaller quantity.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.087. Monthly Well Allowable

The monthly reservoir allowable shall be allocated among all wells entitled to produce gas from the reservoir to give each well its fair share of the gas to be produced from the reservoir, but each well is restricted to the amount of gas that can be produced from it without waste. The volume of gas allocated to each well is the monthly allowable for that well.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.088. Daily Allowable

The daily market demand for gas and the daily allowable shall be determined by dividing the monthly demand and the monthly allowable by the number of days in the month.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.089. Factors in Determining Allowable

(a) In determining the daily allowable production for each gas well, the commission shall take into account:

(1) the size of the tract segregated with respect to surface position and common ownership on which the gas well or wells are located;

(2) the relation between the daily producing capacity of each gas well and the aggregate daily capacity of all gas wells producing the same kind of gas in the same common reservoir or zone; and

(3) other factors that are pertinent.

(b) In determining the daily allowable production for each gas well, the commission shall not take into account the size of the tract on which any gas well or wells are located in excess of the efficient drainage area of the well or wells, producing at 25 percent of the daily productive capacity. The drainage area shall be determined by the commission.

(c) In ascertaining the drainage area of a well, the commission shall take into account such factors as are reflected in the productive capacity of a gas well, including formation pressure, the permeability and porosity of the producing formation, and the well bore's structural position, together with all other factors taken into account by a reasonably

prudent operator in determining the drainage area for a gas well.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.090. Authorizing Overproduction and Underproduction

(a) In order to adjust the correlative rights and opportunities of each owner to produce, use, and sell gas from a common reservoir from which a portion of the market demand is seasonal or where a portion of the market demand fluctuates from month to month, the commission may permit the wells in the reservoir to be produced in excess of the monthly allowable, in accordance with the conditions and limitations set forth in Subsections (b), (c), and (d) of this section, if no waste is caused.

(b) No well may be permitted in any one month to produce:

(1) at a rate in excess of 25 percent of the daily producing capacity of the well as found by the commission; or

(2) in excess of two times its monthly allowable, except that if on application to the commission there is shown to exist, or there is threatened and unforeseen, an emergency requiring an increase in the demand for the gas from the reservoir which cannot be satisfied otherwise from the reservoir, then the wells under the application may be produced as authorized in this subchapter but not in excess of four times each of the well's monthly allowable.

(c) No well may ever be allowed to produce in excess of twice its allowable for more than two months in any period of six months beginning on the first day of March and September of each year. If a well has produced twice its allowable or more during a period of six months beginning on the first day of March or September, it shall be closed in until its production and allowable are in balance.

(d) On the first day of March and September of each year, the commission shall restrict production from all wells that are then overproduced to the fractional part of their monthly allowable that will bring the accumulated allowables and the accumulated monthly production in balance during the next six months. If the overproduction is not balanced during that six-month period, the overproduced well shall be shut in until its production and allowable are in balance.

(e) The commission by appropriate order may permit a gas well to be underproduced for a period of six consecutive months and may allow the accumulated underproduction to be produced in addition to the regular monthly allowable during the following six-month period.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.091. Minimum Limits on Well Restrictions

(a) None of the provisions of this chapter require that the production from a gas well with a daily natural open flow of 200,000 cubic feet of gas or more be restricted to a quantity less than 50,000 cubic feet of gas daily.

(b) None of the provisions of this chapter require that the production from a gas well with a daily natural open flow of less than 200,000 cubic feet of gas be reduced to a quantity less than 25 percent of its natural open flow.

[Acts 1977, 65th Leg., p. 2536, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.092. Maximum Well Production

(a) In a common reservoir producing both sweet and sour gas, no gas well may be permitted to produce in excess of 25 percent of its daily productive capacity except as provided in Subsection (b) of this section.

(b) If the commission finds that reservoir conditions require that the percentage be increased to prevent waste and that the increase will not create a drainage condition between sweet and sour gas land, the commission may authorize an increase in the allowable production.

(c) If the allowable production previously allocated to a well is more than 15 percent of its daily producing capacity and the commission finds that the production of its daily allowable from the well will cause waste due to the intermingling of sweet and sour gas, the commission may order the production from the well restricted to 15 percent of its daily producing capacity. This subsection shall not be construed to militate against the right of the commission to fix the allowable production of a well below 15 percent of its daily producing capacity in carrying out the requirements of Sections 86.089 and 86.090 of this code.

[Acts 1977, 65th Leg., p. 2536, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.093. Effect of Oil and Gas Stratum on Gas Only Stratum

If gas is produced from one stratum and oil and gas are produced from another stratum in the same well bore, the commission shall taken into account the amount of gas produced from the oil stratum in determining the amount of gas that may be produced from the stratum producing gas only. The commission may subtract the amount of the casinghead gas produced from the dry gas that would be allocated to the well if it produced dry gas and may restrict the dry gas production accordingly.

[Acts 1977, 65th Leg., p. 2536, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.094. Authority to Increase Take Above Allowable

If unforeseen contingencies increase the demand for gas required by a distributor, transporter, or purchaser to an amount in excess of the total allowable production of the wells to which he is connected, the distributor, transporter, or purchaser may increase his take ratably from all these wells in order to supply his demand for gas, provided that notice of the increase and the amount of the increase are given to the commission within five days; and provided further, the commission, at its next hearing, shall adjust the inequality of withdrawals caused by the increase in fixing the allowable production of the various wells in the common reservoir or zone.

[Acts 1977, 65th Leg., p. 2537, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.095. Zoning Common Reservoirs

(a) The commission shall zone a common reservoir if, on consideration of the evidence introduced at a hearing, it finds that either the prevention of waste or adjustment of correlative rights and opportunities, or both, as designated in Section 86.081 of this code, may be accomplished more adequately by zoning the common reservoir.

(b) If the commission zones a common reservoir, each zone shall be regarded as a separate common reservoir in making allocations of daily allowable production as provided in this chapter.

(c) If the commission zones a common reservoir, the commission:

(1) shall allocate to each zone its just proportion of the market demand for gas from the common reservoir;

(2) shall establish appropriate rules applicable to each zone;

(3) may adjust its orders to the practicable conditions that exist; and

(4) may enter any reasonable order necessary to effectuate the purposes of this chapter.

(d) The commission may segregate a sour gas area from a sweet gas area and is not required to restrict the allowable production of the sour gas zone to the same percentages that may be produced from the sweet gas zone.

[Acts 1977, 65th Leg., p. 2537, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.096. Failure to Use or Sell Allowable Production

If the commission finds that the owner of a gas well failed or refused to use or sell the allowable production from his well when the owner was offered a connection or market for the gas at a reasonable price, the well shall be excluded from consideration in allocating the daily allowable pro-

duction from the reservoir or zone in which it is located until the owner of the well signifies to the commission his desire to use or sell the gas. In all other cases, all gas wells shall be taken into account in allocating the allowable production among wells producing the same type of gas.

[Acts 1977, 65th Leg., p. 2537, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.097. Production of Gas From Oil Well

No person in possession of or operating an oil well may produce from the oil well gas found in a horizon productive of gas only.

[Acts 1977, 65th Leg., p. 2537, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 86.098 to 86.140 reserved for expansion]

SUBCHAPTER E. METER AND PRESSURE TESTS

§ 86.141. Duty to Test Pressure

All persons producing gas from any gas well shall determine through appropriate tests during the months of January and July of each year the open flow and rock pressure of each gas well from which gas is produced.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.142. Pressure Test Requirements

The test to determine pressure of a gas well shall be made:

(1) under uniform and generally recognized methods;

(2) in the presence of and under the supervision of a representative of the commission; and

(3) under rules prescribed by the commission.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.143. Pressure Test Reports

(a) Verified reports of the tests to determine pressure shall be filed with the commission on or before the 10th day of each January and July.

(b) The reports shall disclose the name of the representative of the commission who was actually present when the tests were made.

(c) The reports are a permanent public record. They shall be kept on file with the commission and shall be open to the inspection and examination of the public.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.144. Demanding Second Test

A person producing gas from the same common reservoir who is dissatisfied with the test as made

and reported may demand that a second test be made in the manner provided in this subchapter and in the presence of the person making the demand or his representative.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.145. **Duty to Test Meter**

The commission shall require one of its duly authorized agents to inspect, read, or test any meter or meters through which gas is being measured or gauged on the request of a lessor, lessee, operator, or royalty owner from whose land, lease, or royalty interest gas is being produced.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 86.146 to 86.180 reserved for expansion]

SUBCHAPTER F. USE OF GAS

§ 86.181. **Use of Sweet Gas Produced From Gas Well**

No sweet gas produced from a gas well may be used for any purpose except:

- (1) light or fuel;
- (2) efficient chemical manufacture, other than the manufacture of carbon black, provided that sweet gas produced from wells located in a common reservoir producing both sweet and sour gas may be used for the manufacture of carbon black if it is used in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet of gas;
- (3) bona fide introduction of gas into oil or gas bearing horizon in order to maintain or increase the rock pressure, or otherwise increase the ultimate recovery of oil or gas from the horizon; and
- (4) the extraction of natural gasoline when the residue is returned to the horizon from which it is produced.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.182. **Use of Sour Gas**

In addition to the purposes for which sweet gas produced from a gas well may be used, sour gas may be used for efficient chemical manufacturing purposes including the manufacture of carbon black provided:

- (1) it is utilized in a plant producing a recovery of not less than one pound of carbon black to each 1,000 cubic feet of gas; and
- (2) the gasoline content is removed and saved from the sour gas before the gas is used for carbon black.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.183. **Use of Casinghead Gas**

Casinghead gas may be used for any beneficial purpose, which includes the manufacture of natural gasoline.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.184. **Use as Gas Lift**

(a) A producer of either sweet or sour gas or casinghead gas may use the gas as gas lift in the bona fide production of oil if the gas is not used in excess of 10,000 cubic feet per barrel of oil produced.

(b) To prevent waste in a case where the facts in the case warrant it, the commission may permit the use of additional quantities of gas to lift oil provided:

- (1) all the gas used in excess of 10,000 cubic feet for each barrel of oil is processed for natural gasoline; and
- (2) the residue is burned for carbon black when it is reproduced.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.185. **Prohibition Against Gas in Air**

No gas from a gas well may be permitted to escape into the air after the expiration of 10 days from the time the gas is encountered in the gas well, or from the time of perforating the casing opposite a gas-bearing zone if casing is set through the zone, whichever is later, but the commission may permit the escape of gas into the air for an additional time if the operator of a well or other facility presents information to show the necessity for the escape; provided that the amount of gas which is flared under that authority is charged to the operator's allowable production. A necessity includes but is not limited to the following situations:

- (1) cleaning a well of sand or acid or both following stimulation treatment of a well; and
- (2) repairing or modifying a gas-gathering system.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2696, ch. 871, art. II, § 9, eff. Sept. 1, 1977.]

[Sections 86.186 to 86.220 reserved for expansion]

SUBCHAPTER G. ENFORCEMENT;
JUDICIAL REVIEW

§ 86.221. **Unauthorized Production Prohibited**

No person may produce gas from a gas well in violation of the valid orders of the commission.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.222. Penalties

(a) Any person who violates a provision of this chapter or a rule or order adopted under this chapter is liable for a penalty of not more than:

(1) \$10,000 for each offense when the provision, rule, or order pertains to safety or the prevention or control of pollution; or

(2) \$1,000 for each offense when the provision, rule, or order does not pertain to safety or the prevention or control of pollution.

(b) Each day a violation occurs constitutes a separate offense.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, § 1, eff. Sept. 1, 1983.]

For applicability of 1983 amendatory act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

§ 86.223. Suit for Penalty

The penalty may be recovered with the cost of suit by the State of Texas through the attorney general or the county or district attorney when joined by the attorney general in a civil action instituted in Travis County, in the county in which the violation occurred, or in the county of residence of the defendant.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, § 1, eff. Sept. 1, 1983.]

For applicability of 1983 amendatory act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

§ 86.224. Suit for Injunction

A violation or threatened violation of this chapter may be enjoined by any court of competent jurisdiction in which the suit for penalty may be brought. The court may issue mandatory or prohibitory writs of injunction that the facts justify.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.225. Judicial Review

Any person affected by an order of the commission adopted under the authority of this chapter is entitled to judicial review of that order in a manner other than trial de novo.

[Acts 1977, 65th Leg., p. 2540, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 87. REGULATION OF SOUR NATURAL GAS

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SUBCHAPTER A. GENERAL PROVISIONS

§ 87.001. Definitions

In this chapter, the words "oil," "gas," "commission," "common reservoir," "gas well," "oil well," "sour gas," "sweet gas," "natural gasoline," "cubic foot of gas," and "casinghead gas" are defined as provided in Section 86.002 of this code.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.002 to 87.010 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES
OF COMMISSION

§ 87.011. Rules and Orders

(a) In administering the provisions of this chapter, the commission shall hold hearings, make determinations, and promulgate rules and orders as provided in Sections 86.084-86.090 of this code and other laws of this state.

(b) After notice and hearing as provided by law, the commission shall promulgate any other rule or order it finds necessary to carry out the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.012. Validity

(a) Rules and orders adopted by the commission under the terms of this chapter are considered prima facie valid.

(b) A person affected by an order may sue to test the validity of the order adopted by the commission under this chapter in the same manner, on the same conditions, and in the same court or courts as prescribed for suits testing the validity of orders of the commission promulgated under the general oil conservation statutes of this state.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.013. Hearings

From time to time, the commission shall hold hearings, after proper notice, to hear evidence and to adopt rules and orders to enforce the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.014. Inspection of Records; Reports

In addition to authority given by existing law, the commission or its agents may:

(1) inspect the books and records of any person who is affected by the provisions of this chapter; and

(2) require sworn reports to be filed from time to time as the commission finds necessary.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.015 to 87.050 reserved for expansion]

SUBCHAPTER C. PRODUCTION OF
SOUR GAS

§ 87.051. Limitation of Sour Gas Production

No person may produce sour gas from any sour gas well in a reservoir producing both sweet and sour gas in excess of the daily allowable production

for the gas well as fixed by the orders and schedules of the commission. The rate of production from a sour gas well is considered to be the daily average rate of production for the calendar month.

[Acts 1977, 65th Leg., p. 2542, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.052. Maximum Production of Sour Gas for Carbon Black Manufacture

(a) In any common reservoir in the state producing both sweet and sour gas, there shall never be produced from the common reservoir for use in carbon black manufacture a maximum daily volume of sour gas from the gas wells in excess of 750 million cubic feet.

(b) The commission shall prorate the daily volume of sour gas from gas wells among all the sour gas wells in the reservoir to prevent cognizable and preventable drainage of gas from tracts of land in the sour gas producing area segregated as to surface position and common ownership on which the sour gas wells are located.

[Acts 1977, 65th Leg., p. 2542, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.053. Effect of Demand Below Maximum Allowable Production

(a) If the daily demand for sour gas from gas wells for use in carbon black manufacture is less than the daily maximum allowable permitted in Section 87.052 of this code, the total daily volume of gas from gas wells from the sour gas area for use in carbon black manufacture shall be equal to the daily demand.

(b) The commission shall determine the daily demand and prorate it among all the sour gas wells in the area as provided in Section 87.052 of this code.

[Acts 1977, 65th Leg., p. 2542, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.054. Effect of Demand for Other Purposes Than Carbon Black Manufacture

(a) If a lawful daily demand exists for sour gas from gas wells for purposes of utilization permitted by law, other than the manufacture of carbon black, the additional demand shall be added to the daily demand for carbon black manufacture, and that sum shall constitute the daily volume of sour gas from gas wells that may be withdrawn from the common reservoir for utilization.

(b) The commission shall prorate the daily volume provided for in Subsection (a) of this section among the sour gas wells in the area on the basis set forth in Section 87.052 of this code.

[Acts 1977, 65th Leg., p. 2542, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.055 to 87.090 reserved for expansion]

SUBCHAPTER D. PLANTS EXTRACTING
NATURAL GASOLINE

§ 87.091. Prohibited Commingling of Gas

In a plant for the extraction of natural gasoline content of gas, no sweet gas may be commingled with sour gas and no casinghead gas may be commingled with sweet gas or sour gas or both, except on the conditions and requirements stated in this subchapter.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.092. Permit Required

In any common reservoir in this state producing both sweet and sour gas, no person may operate a plant for the extraction of the natural gasoline content of gas in which sweet gas and sour gas are commingled, or plant casinghead gas is commingled with either sweet gas or sour gas or both, until the person secures from the commission a permit authorizing the operation of the plant.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.093. Issuance of Permit

The commission shall issue a permit if it appears that the plant is being operated and the residue gas from the plant is and will be disposed of in accordance with the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.094. Cancellation of Permit

(a) If it appears to the commission that a plant is operating in violation of any of the provisions of this subchapter, the commission shall cancel the permit issued to the plant.

(b) After the cancellation of the permit, no operator of the plant may commingle either sweet gas and sour gas or casinghead gas with sweet gas or sour gas in the plant for the purpose of extracting the natural gasoline content.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.095. Residue Gas Allowed in Air

(a) Except as provided in Subsection (b) of this section, if a plant operating under this subchapter commingles casinghead gas with sweet gas or sour gas or both, the operator of the plant shall not blow, or permit to be blown, in the air any of the residue gas remaining after the gasoline content of the gas is extracted.

(b) The operator of a plant may blow in the air an amount of residue gas from the plant that is deter-

mined by the commission to be necessary to accomplish uninterrupted deliveries in required amounts to carbon black plants for carbon black manufacture.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.096. Residue Gas: Determination by Commission

If a plant operating under this subchapter commingles casinghead gas with sweet gas or sweet gas with sour gas, the commission shall ascertain:

(1) the quantity of residue gas required to be used for fuel purposes in the efficient operation of the plant; and

(2) the quantity of residue gas required to be returned by the operator of the plant to the leases to which the plant is connected for use as fuel in the operation of the leases.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.097. Use of Residue Gas for Other Purposes

(a) The operator of the plant is required to use, or cause to be used, for one or more of the uses provided for sweet gas by law a quantity of the residue gas from the plant equal to the quantity of sweet gas taken into the plant for processing, less the extraction loss from the processing.

(b) The operator shall not be credited with use of residue for plant-fuel or lease-fuel operations in an amount in excess of the quantity of the residue gas found by the commission to be necessary for the efficient operation of the plant and return to the leases for fuel for lease operations.

[Acts 1977, 65th Leg., p. 2544, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.098 to 87.130 reserved for expansion]

SUBCHAPTER E. USE OF GAS WITHOUT
EXTRACTION OF NATURAL GASOLINE

§ 87.131. Use of Sweet Gas for Carbon Black Manufacture

Sweet gas produced from any gas well in this state may be used without the prior extraction of its gasoline content for the manufacture of carbon black if it is used in a plant producing an average recovery of not less than five pounds of carbon black for each 1,000 cubic feet of gas.

[Acts 1977, 65th Leg., p. 2544, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.132. Use of Gas From Certain Wells for Carbon Black Manufacture

(a) Gas from any gas well completed on or before September 5, 1947, within a common reservoir producing both sweet and sour gas from which the gas

was not sold off the leased premises to an interstate pipeline company during the year immediately preceding September 5, 1947, or gas from any gas well completed after September 5, 1947, within a common reservoir producing both sweet and sour gas, may be used for the manufacture of carbon black without the prior extraction of its natural gasoline content if:

(1) it is used in a plant producing an average recovery of not less than one and one-half pounds of carbon black for each 1,000 cubic feet of gas; and

(2) the royalty rate and market price paid for the gas at the wellhead at least equals the royalty rate and market price paid at the wellhead in the immediate area for gas used for light and fuel purposes.

(b) In arriving at the market price of sour gas, a reduction of not more than one-half cent per 1,000 cubic feet shall be allowed for purifying the gas to render it suitable for light and fuel purposes.

(c) If the gas is used by a producer, any royalty rate paid shall be paid on the same basis.

[Acts 1977, 65th Leg., p. 2544, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.133. Determining Market Price

(a) After due notice of hearing, the commission shall hold annual or semiannual hearings, as it considers necessary, for the purpose of determining the market price that is being paid at the wellhead for gas being used and sold for light and fuel purposes.

(b) After the hearing and determination of the market price, the commission shall post and publish the price in its main office in Austin, and its branch office, if any, in the area affected.

(c) All parties contracting for gas under the provisions of this subchapter may accept the posted and published price as the market price to be paid for the gas.

[Acts 1977, 65th Leg., p. 2544, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.134. Effect of Subchapter

The provisions of this subchapter are cumulative of existing laws relating to the uses of gas and do not restrict or affect the manufacture of carbon black from processed sour gas as authorized by Section 86.182 of this code.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.135 to 87.170 reserved for expansion]

SUBCHAPTER F. USE OF GAS DETERMINED BY HYDROCARBON CONTENT

§ 87.171. Gas Containing Low Hydrocarbon Content

Any natural gas, including casinghead gas, produced from any gas well or oil well in this state,

containing less than one and one-half gallons of propane and heavier hydrocarbons per 1,000 cubic feet, as determined by fractional analysis made of the gas, may be used for the manufacture of carbon black in a plant producing an average recovery of at least one and one-half pounds of carbon black for each 1,000 cubic feet of gas consumed.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.172. Gas Containing High Hydrocarbon Content

(a) Except as provided in Subsection (b) of this section, no natural gas, including casinghead gas, produced from any gas well or oil well in this state, containing one and one-half gallons or more of propane and heavier hydrocarbons per 1,000 cubic feet, as determined by fractional analysis made of the gas, may be used for the manufacture of carbon black in a plant producing an average recovery of at least one and one-half pounds of carbon black for each 1,000 cubic feet of gas consumed without the prior extraction of its natural gasoline content.

(b) On the filing of an application and after proper notice and hearing as provided by law, the commission may authorize the use of any natural gas, including casinghead gas, containing one and one-half gallons or more of propane and heavier hydrocarbons per 1,000 cubic feet, as determined by fractional analysis made of the gas, in the manufacture of carbon black in a plant producing an average recovery of at least one and one-half pounds of carbon black for each 1,000 cubic feet of gas consumed if the commission finds it is unprofitable to first extract the natural gasoline content of the gas.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.173. Additional Extraction to Alleviate Shortage

If a general shortage of propane or heavier liquid hydrocarbons occurs, the commission, after notice and hearing, may require additional extraction of hydrocarbons from the gas to alleviate the shortage, but additional extraction shall not be required if it is not economically feasible to do so.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.174. Applicability of This Subchapter

The provisions of this subchapter shall not apply to:

(1) gas produced from a common reservoir that contains both sweet and sour gas which was being lawfully used for the manufacture of carbon black under the provisions of the source law codified in Subchapters D and E of this chapter at the time of the passage of the source law for this section; or

(2) gas from gas wells located in these reservoirs which were entitled to be so used under the provisions of the source law codified in Subchapters D and E of this chapter at the time of the passage of the source law for this section.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.175 to 87.210 reserved for expansion]

SUBCHAPTER G. CARBON BLACK PLANTS

§ 87.211. Prohibited Location

Unless adequate precaution is taken to minimize the emission of smoke from the plant, no channel-type carbon black plant shall be erected or constructed closer than five miles to:

- (1) the limits of a city, town, or village incorporated at or before the time the erection or construction of the plant is begun; or
- (2) a commercially operated citrus fruit orchard planted not less than one year before the time the erection or construction of the plant is commenced.

[Acts 1977, 65th Leg., p. 2546, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.212 to 87.240 reserved for expansion]

SUBCHAPTER H. ENFORCEMENT

§ 87.241. Penalty

(a) A person who violates this chapter is liable to a penalty of not more than \$1,000 for each offense.

(b) Each day a violation occurs constitutes a separate offense.

(c) The penalty may be recovered by the State of Texas, with costs of suit, in a civil action instituted by the attorney general in Travis County, in the county in which the violation occurred, or in the county of residence of the defendant.

[Acts 1977, 65th Leg., p. 2546, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5255, ch. 967, § 3, eff. Sept. 1, 1983.]

For applicability of 1983 amendatory act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

§ 87.242. Injunctive Relief

(a) A violation or threatened violation of this chapter may be enjoined by any court of competent jurisdiction in which suit for penalty may be brought.

(b) The court shall issue the writs or prohibitory or mandatory injunctions that the facts justify.

[Acts 1977, 65th Leg., p. 2546, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 88. CONTROL OF OIL PROPERTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

88.001. Definitions.

SUBCHAPTER B. RULES

88.011. Adoption of Rules.

88.012. Rules and Orders Relating to Records and Reports.

88.013. Notice by Publication.

SUBCHAPTER C. PRACTICES PROHIBITED IN THE PRODUCTION OF OIL AND GAS

88.051. Production Prohibited in Excess of Allowable Amount.

88.052. Prohibited Passage From Control of Producer Without Measurement and Record of Amount.

88.053. Prohibited Evasion or Prevention of Accurate Measurement.

88.0531. Criminal Penalty.

88.054. Passage From Control of Producer Prohibited If Tank Not Under His Control.

88.055. Production Prohibited Without Flare.

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SUBCHAPTER D. INSPECTION AND EXAMINATION OF OIL PROPERTY

88.091. Access to Property and Records.

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SUBCHAPTER E. ENFORCEMENT; PENALTIES

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88.133. Responsibility for Compliance and Liability to Prosecution.

88.134. Penalties.

88.135. Civil Penalties and Injunctions.

SUBCHAPTER A. GENERAL PROVISIONS

§ 88.001. Definitions

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Governmental agent" or "governmental agency" means the Railroad Commission of Texas and any other administrative governmental board and governmental agent to which the legislature delegates the duty of supervising the production of oil and gas in the State of Texas.

(3) "Oil property" means a well producing oil, gas, or oil and gas, and any group of such contiguous wells of any number owned, operated, or controlled as a producing unit by the same person in the same locality, and any leasehold estate to the extent that it is owned, operated, and controlled by the same person.

[Acts 1977, 65th Leg., p. 2547, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 88.002 to 88.010 reserved for expansion]

SUBCHAPTER B. RULES

§ 88.011. Adoption of Rules

(a) The governmental agency may promulgate and adopt rules:

(1) to provide for the method of measuring oil and gas produced from any well in this state and to provide for the type of measuring devices to be used in obtaining the measurement;

(2) for the inspection of all oil properties to ascertain that the prescribed measuring devices are installed, are in accurate working condition, and are being accurately used;

(3) to provide that no oil or gas is being permitted to leave the possession of the producer without first being accurately measured and an accurate record of production made and preserved;

(4) to provide that no oil is being produced from a well producing both oil and gas without burning a flare or flares if the installation and use of a flare or flares is required by the terms of this chapter;

(5) for the keeping of complete and accurate records correctly reflecting the amount of oil or gas or both produced from each oil property each calendar day and the disposition and method of disposition of all the oil and gas produced, and for the monthly filing with the governmental agency of monthly reports accurately reflecting the true facts with respect to all such matters; and

(6) for the inspection and examination by the governmental agency, or its agents, servants, and employees, of all oil properties and the records provided for in this chapter.

(b) The rules shall be adopted in the manner provided by law for adoption of rules of the commission.

[Acts 1977, 65th Leg., p. 2547, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.012. Rules and Orders Relating to Records and Reports

The rules and orders of the governmental agency relating to records and reports shall prescribe the form in which the records and reports will be made and kept, but the records and reports shall contain the data and information provided for in this chapter.

[Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.013. Notice by Publication

(a) When the governmental agency adopts a rule under this chapter, the governmental agency shall publish a complete copy of the rule once each day for three consecutive days in three newspapers of

general circulation in the state, to be selected by the governmental agency.

(b) Notice of any amendment, repeal, alteration, or modification of the order may be similarly adopted and will become effective after similar notice.

[Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 88.014 to 88.050 reserved for expansion]

SUBCHAPTER C. PRACTICES PROHIBITED IN THE PRODUCTION OF OIL AND GAS

§ 88.051. Production Prohibited in Excess of Allowable Amount

No person owning, leasing, operating, producing, or controlling an oil property or any oil well in this state may produce or cause to be produced on any day from any oil property or oil well any oil in excess of the amount allowed to be produced each day from the oil property or oil well under an order previously adopted by the governmental agency and in force at the time.

[Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.052. Prohibited Passage From Control of Producer Without Measurement and Record of Amount

No person owning, leasing, operating, or controlling an oil property in this state may permit the oil or gas produced to pass beyond the possession or control of that person to the possession or control of any other person without first accurately measuring the amount of the oil or gas and making and preserving an accurate record of the amount.

[Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.053. Prohibited Evasion or Prevention of Accurate Measurement

No person owning, leasing, operating, or controlling an oil property in this state may use a method or device to evade or prevent obtaining the accurate measurement as provided in Section 88.052 of this code.

[Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.0531. Criminal Penalty

(a) A person who knowingly violates Section 88.052 or 88.053 of this code commits an offense.

(b) An offense under this section is a Class A misdemeanor unless the actor has been convicted

previously under this section, in which event the offense is a felony of the third degree.

[Acts 1983, 68th Leg., p. 5231, ch. 960, § 2, eff. Sept. 1, 1983.]

§ 88.054. Passage From Control of Producer Prohibited If Tank Not Under His Control

No person owning, leasing, operating, or controlling an oil property may permit oil produced by him in this state to pass from his possession or control to the possession or control of any other person except from a tank or tanks under the control of the person producing the oil.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.055. Production Prohibited Without Flare

If the gas from a well producing both oil and gas is not trapped and used and the gas is capable of being burned in a flare, no person owning, leasing, operating, or controlling an oil property in this state may produce oil from the well at any time without simultaneously and continuously burning a flare to consume all gas that otherwise would be permitted to escape into the open air.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.056. Identifying Signs

Each oil property in this state, each tank owned or controlled by such person to which the property is connected, and each flare to which the property is connected shall be posted at all times with a sign written in the English language with letters at least one inch in height, stating:

- (1) the name of the owner of the property;
- (2) the operator of the property;
- (3) the number of acres contained in the property; and
- (4) the name by which the property is commonly known and identified.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 88.057 to 88.090 reserved for expansion]

SUBCHAPTER D. INSPECTION AND EXAMINATION OF OIL PROPERTY

§ 88.091. Access to Property and Records

The governmental agency shall have access at all times to:

- (1) the oil property of all persons for inspection and examination; and

- (2) the records of all these persons for inspection, examination, and audit.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.092. Prohibited Interference With Access and Inspection

No person may:

- (1) refuse to permit the governmental agency, or an agent, servant, representative, or employee of the governmental agency, to have access to an oil property for inspection and examination;

- (2) interfere with the inspection and examination;

- (3) remove, tamper with, mutilate, or destroy a device, seal, or meter on an oil property placed there or used in the inspection and examination; or

- (4) refuse to permit the governmental agency, or an agent, servant, representative, or employee of the governmental agency, to have access, for inspection, examination, and audit, to the books, documents, and records pertaining to, used in connection with, or required to be used in connection with an oil property.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.093. Prohibited Equipment or Enclosure

No person owning, leasing, operating, or controlling an oil property in this state may equip or enclose his oil property, or any part of his oil property, in a manner that:

- (1) prevents inspection and examination; or
- (2) prevents an inspection and examination from revealing the true facts with respect to:
 - (A) the amount of oil or oil and gas being produced from the oil property;
 - (B) the manner in which the oil property is being operated; or
 - (C) the manner and method by which the production from the oil property is produced, stored, or delivered from the possession or control of that person.

[Acts 1977, 65th Leg., p. 2550, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.094. Prohibited Gift or Gratuity

No person may corruptly give, offer, or promise to give a member of the governmental agency, chief supervisor, deputy supervisor, or any agent or employee of the governmental agency a gift or gratuity with intent to influence the officer or person in his acts or conduct with respect to:

- (1) enforcing any provision of the law applicable to oil and gas in force at the time in this state;

(2) enforcing any order or rule of the governmental agency adopted under the power and authority given to it; or

(3) the discharge of any duty imposed on him by the oil and gas laws, orders, and rules duly promulgated and in force at the time in this state.

[Acts 1977, 65th Leg., p. 2550, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 88.095 to 88.130 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT;
PENALTIES

§ 88.131. Venue

The courts of the county in which the oil property or any part of the oil property is located and with respect to which a violation of the provisions of this chapter is charged, the courts of Travis County, or the courts of the county of the residence of any defendant, have jurisdiction of all prosecutions for violations of the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2550, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, § 1, eff. Sept. 1, 1983.]

For applicability of 1983 amendatory act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

§ 88.132. Service of Process

(a) In a suit or action involving the enforcement of the conservation laws of this state or the orders of the commission affecting the conservation of the natural resources of this state, a Texas Ranger or an agent of the commission may serve civil or judicial process, citation, notice, warrant, subpoena, or writ, including process of every character in contempt proceedings, the same and as fully as a sheriff or constable of a county to whom the process, writ, notice, citation, subpoena, or warrant might be directed could within the limits of his own county.

(b) A ranger or an agent of the commission may serve the process anywhere in the State of Texas although it may be directed to "any sheriff or constable" of a particular county. He shall make the same return as any other officer, sign his name, and add under his name the title of "State Ranger" or "Agent, Railroad Commission of Texas," as the case may be, which is sufficient to make it valid if the writ otherwise is properly prepared.

(c) No fees are allowed the rangers or agents of the commission other than their regular salary or compensation.

[Acts 1977, 65th Leg., p. 2550, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.133. Responsibility for Compliance and Liability to Prosecution

The president of each corporation, the chief managing executive of each association, all active members of each firm and partnership, and all trustees of each trust subject to the provisions of this chapter shall be responsible for the compliance with the terms of this chapter by the corporation, association, firm, partnership, or trust of which he is, respectively, president, chief managing executive, member, or trustee, and he shall be liable to prosecution under and subject to the criminal penalties provided in this chapter for violations of this chapter by the respective corporation, association, firm, partnership, or trust of which he has actual knowledge or to which he assents.

[Acts 1977, 65th Leg., p. 2551, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.134. Penalties

(a) A person who violates any of the provisions of Sections 88.091 through 88.093 of this code, or any person who fails to comply with any of the provisions of those sections, is guilty of a misdemeanor and on conviction shall be subject to a fine of not more than \$500, or by confinement in the county jail for not more than six months, or by both.

(b) A person who violates any other provision of this chapter other than those covered by Subsection (a) of this section, a person who fails to comply with any of the other terms of this chapter, a person who fails to comply with the terms of a rule or order adopted by the governmental agency under the terms of this chapter, or a person who violates any of the rules or orders of the governmental agency adopted under the provisions of this chapter on conviction is considered guilty of a felony and on conviction shall be punished by imprisonment in the state penitentiary for a term of not less than two nor more than four years.

[Acts 1977, 65th Leg., p. 2551, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.135. Civil Penalties and Injunctions

In addition to the powers specifically granted to the commission under this chapter, the commission may enforce this chapter or any rule, order, or permit of the commission adopted under this chapter in the same manner and subject to the same conditions as provided by Chapters 81 and 85 of this code, including recovering civil penalties and seeking injunctive relief as provided by those chapters.

[Acts 1983, 68th Leg., p. 5260, ch. 967, § 7, eff. Sept. 1, 1983.]

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

CHAPTER 89. ABANDONED WELLS**SUBCHAPTER A. GENERAL PROVISIONS****Sec.**

- 89.001. Policy.
89.002. Definitions.
89.003. Applicability.

SUBCHAPTER B. DUTY TO PLUG WELLS

- 89.011. Duty of Operator.
89.012. Duty of Nonoperator.
89.013. Repealed.

SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSION

- 89.041. Determining Proper Plugging.
89.042. Commission Order to Plug.
89.043. Plugging by Commission.
89.044. Right to Enter on Land.
89.045. Liability for Damages.
89.046. Penalties and Other Relief.

SUBCHAPTER D. COSTS OF PLUGGING WELLS

- 89.081. Cause of Action for Disproportionate Share of Cost.
89.082. Repealed.
89.083. Cause of Action If Commission Plugs.
89.084. Money Paid Commission by Private Person.

SUBCHAPTER E. ENFORCEMENT; JUDICIAL REVIEW

- 89.121. Enforcement by Commission.
89.122. Appeal to Courts.

SUBCHAPTER F. WELL PLUGGING FUND

- 89.151. Fund Created; Purpose.
89.152. Composition of Fund.

SUBCHAPTER A. GENERAL PROVISIONS**§ 89.001. Policy**

The conservation and development of all the natural resources of this state are declared to be a public right and duty. It is also declared that the protection of water and land of the state against pollution or the escape of oil or gas is in the public interest. In the exercise of the police power of the state, it is necessary and desirable to provide additional means so that wells that are drilled for the exploration, development, or production of oil or gas, or as injection or salt water disposal wells, and that have been abandoned and are leaking salt water, oil, gas, or other deleterious substances into freshwater formations or on the surface of the land, may be plugged, replugged, or repaired by or under the authority and direction of the commission.

[Acts 1977, 65th Leg., p. 2552, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 89.002. Definitions

- (a) In this chapter:

(1) "Well" means a hole drilled for the purpose of:

- (A) producing oil or gas;
(B) injecting fluid or gas in the ground in connection with the exploration or production of oil or gas; or
(C) obtaining geological information by taking cores or through seismic operations.

(2) "Operator" means a person who is responsible for the physical operation and control of a well at the time the well is about to be abandoned or ceases operation.

(3) "Nonoperator" means a person who owns a working interest in a well at the time the well is about to be abandoned or ceases operation and is not an operator as defined in Subdivision (2) of this subsection.

(4) "Commission" means the Railroad Commission of Texas.

(b) The terms operator and nonoperator as defined in this section do not mean a royalty interest owner or an overriding royalty interest owner.

[Acts 1977, 65th Leg., p. 2552, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5255, ch. 967, § 4, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5406, ch. 1002, § 1, eff. Aug. 29, 1983.]

§ 89.003. Applicability

The provisions of this chapter do not alter causes of action arising before August 30, 1965.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 89.004 to 89.010 reserved for expansion]

SUBCHAPTER B. DUTY TO PLUG WELLS**§ 89.011. Duty of Operator**

The operator of a well shall properly plug the well when required and in accordance with the commission's rules that are in effect at the time of plugging.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 89.012. Duty of Nonoperator

If the operator of a well fails to comply with Section 89.011 of this code, each nonoperator is responsible for his proportionate share of the cost of the proper plugging of the well within a reasonable time, according to the rules of the commission in effect at the time the responsibility attaches.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 89.013. Repealed by Acts 1983, 68th Leg., p. 5267, ch. 967, § 16, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5409, ch. 1002, § 3, eff. Aug. 29, 1983

[Sections 89.014 to 89.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSION

§ 89.041. Determining Proper Plugging

If it comes to the attention of the commission that a well that has been abandoned or is not being operated is causing or is likely to cause pollution of fresh water above or below the ground or if gas or oil is escaping from the well, the commission may determine at a hearing, after due notice, whether or not the well was properly plugged as provided in Section 89.011 or Section 89.012 of this code.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, § 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, § 2, eff. Aug. 29, 1983.]

§ 89.042. Commission Order to Plug

(a) If the commission finds that the well was not properly plugged, it shall order the operator to plug the well according to the rules of the commission in effect at the time the order is issued.

(b) If the operator cannot be found or is no longer in existence or has no assets with which to properly plug the well, the commission shall order the nonoperators to plug the well according to the rules of the commission in effect at the time the order is issued.

(c) Repealed by Acts 1983, 68th Leg., p. 5409, ch. 1002, § 3, eff. Aug. 29, 1983.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, § 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5409, ch. 1002, § 3, eff. Aug. 29, 1983.]

§ 89.043. Plugging by Commission

(a) If the commission determines at a hearing under Section 89.041 of this code that a well has not been properly plugged or needs replugging, the commission, through its employees or through a person acting as agent for the commission, may plug or replug the well if:

(1) the well was properly plugged according to rules in effect at the time the well was abandoned or ceased to be operated; or

(2) neither the operator nor nonoperator properly plugged the well, and

(A) neither the operator nor nonoperator can be found; or

(B) neither the operator nor nonoperator has assets with which to properly plug the well.

(b) If a well is leaking salt water, oil, or gas or is likely to leak salt water, oil, or gas, and the leakage

will cause or is likely to cause a serious threat of pollution or injury to the public health, the commission, through its employees or agents, may direct the operator to take remedial action or to plug the well or may plug or replug the well without holding a hearing under Section 89.041 of this code.

[Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, § 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, § 2, eff. Aug. 29, 1983.]

§ 89.044. Right to Enter on Land

The commission or its employees or agents, the operator or the nonoperator, on proper identification, may enter the land of another for the purpose of plugging or replugging a well that has not been properly plugged.

[Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, § 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, § 2, eff. Aug. 29, 1983.]

§ 89.045. Liability for Damages

The commission and its employees and agents, the operator, and the nonoperator are not liable for any damages that may occur as a result of acts done or omitted to be done by them or each of them in a good-faith effort to carry out this chapter.

[Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, § 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, § 2, eff. Aug. 29, 1983.]

§ 89.046. Penalties and Other Relief

The plugging or replugging of a well by the commission does not prevent the commission from seeking penalties or other relief provided by law from any person who is required by law, rules adopted by the commission, or a valid order of the commission to plug the well.

[Acts 1983, 68th Leg., p. 5256, ch. 967, § 5, eff. Sept. 1, 1983.]

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

[Sections 89.047 to 89.080 reserved for expansion]

SUBCHAPTER D. COSTS OF PLUGGING WELLS

§ 89.081. Cause of Action for Disproportionate Share of Cost

If an operator or nonoperator owns only a partial interest in the well or oil and gas and the operator or nonoperator pays a larger proportion of the cost of plugging the well than his proportionate interest in the well or oil and gas, he has a cause of action

against the other operators and nonoperators for their proportionate shares of the cost of plugging.

[Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, § 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, § 2, eff. Aug. 29, 1983.]

§ 89.082. Repealed by Acts 1983, 68th Leg., p. 5267, ch. 967, § 16, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5409, ch. 1002, § 3, eff. Aug. 29, 1983

§ 89.083. Cause of Action If Commission Plugs

(a) If the commission plugs a well under Sections 89.043 through 89.044 of this code, the state has a cause of action for all reasonable expenses incurred in plugging or replugging the well according to the rules of the commission in effect at the time the well is plugged or replugged.

(b) The cause of action is:

(1) first, against the operator, to be secured by a lien on his interest in the oil and gas in the land and his fixtures, machinery, and equipment found or used on the land where the well is located; and

(2) second, against the nonoperator at the time the well should have been plugged, to be secured by a lien on his interest in the oil and gas in the land.

(c) The commission shall seek reimbursement for all reasonable expenses incurred in plugging any well through an action instituted by the attorney general.

(d) Money collected in a suit under this section shall be deposited in the state well plugging fund.

(e) A civil action for reimbursement under this section may be brought in Travis County, the county in which the plugged well is located, or the county in which any defendant resides.

[Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, § 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, § 2, eff. Aug. 29, 1983.]

§ 89.084. Money Paid Commission by Private Person

(a) The commission may accept money from private persons and use the money to plug or replug a well.

(b) Paying money to the commission is not an admission that the person paying the money is obligated to plug or replug the well. Evidence that a person has paid money to the commission is not admissible against the person in a suit in which the person's obligation to plug a well is an issue and introducing the evidence is a compulsory ground for mistrial.

[Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

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[Sections 89.085 to 89.120 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT; JUDICIAL REVIEW

§ 89.121. Enforcement by Commission

(a) In addition to the powers specifically granted to the commission under this chapter, the commission may enforce this chapter or any rule or order of the commission adopted under this chapter in the same manner and on the same conditions as provided in the other chapters of Title 3 of this code.

(b) Civil penalties collected for violations of this chapter or of rules relating to plugging that are adopted under this code shall be deposited in the state well plugging fund.

[Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, § 1, eff. Sept. 1, 1983.]

For applicability of 1983 amendatory act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

§ 89.122. Appeal to Courts

Any person affected by the provisions of this chapter may sue to test the validity of any order adopted by the commission under this chapter in the same manner, on the same conditions, and to the same court or courts as prescribed for suits testing the validity of orders of the commission adopted under the general oil conservation statutes of this state.

[Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBCHAPTER F. WELL PLUGGING FUND

§ 89.151. Fund Created; Purpose

The state well plugging fund is created in the state treasury and money in the fund shall be used by the commission or its employees or agents for the purpose of plugging abandoned wells and for enforcement of laws or rules relating to the commission's authority to prevent pollution. The commission shall submit a report biennially to the legislature relating to the categories and amounts of disbursement of money from the fund.

[Acts 1983, 68th Leg., p. 5261, ch. 967, § 8, eff. Sept. 1, 1983.]

§ 89.152. Composition of Fund

(a) The well plugging fund shall consist of:

(1) penalties imposed under Section 85.381 of this code for violation of a law, order, or rule relating to well plugging requirements;

(2) proceeds from bonds and other financial assurances relating to the proper plugging of wells

in accordance with state law and commission rules and orders;

(3) private contributions made under Section 89.084 of this code;

(4) expenses collected under Section 89.083 of this code;

(5) drilling permit fees imposed under Section 85.2021 of this code;

(6) civil penalties collected for violations of this chapter or of rules or orders relating to plugging that are adopted under this code; and

(7) interest earned on the funds deposited in the fund.

(b) The well plugging fund may also include legislative appropriations.

[Acts 1983, 68th Leg., p. 5251, ch. 967, § 8, eff. Sept. 1, 1983.]

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

CHAPTER 90. INTERSTATE COMPACT TO CONSERVE OIL AND GAS

Sec.

- 90.001. Ratification.
- 90.002. Original Copy.
- 90.003. Representative.
- 90.0031. Annual Report.
- 90.0032. Application of Sunset Act.
- 90.004. Extension.
- 90.005. Form of Agreement.
- 90.006. Withdrawal From Compact.
- 90.007. Text of Compact.

§ 90.001. Ratification

The Interstate Compact to Conserve Oil and Gas, executed in the City of Dallas, on February 16, 1935, by the Governor of Texas, the text of which is set out in Section 90.007 of this code, was ratified by the legislature of this state in Chapter 81, General Laws, Acts of the 44th Legislature, Regular Session, 1935.

[Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 90.002. Original Copy

The original copy of the compact is on deposit with the Department of State of the United States.

[Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 90.003. Representative

(a) The governor is the official representative of the State of Texas on the Interstate Oil Compact Commission, provided for in the Interstate Compact to Conserve Oil and Gas. He shall exercise and perform for the state all the powers and duties as a member of the Interstate Oil Compact Commission.

(b) The governor may appoint an assistant representative who shall act in his stead as the official representative of the State of Texas as a member of the commission.

(c) The representative shall take the oath of office prescribed by the constitution, which shall be filed with the Secretary of State.

[Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 90.0031. Annual Report

Before October 1 of each year, the office of the Interstate Oil Compact Commissioner for Texas shall prepare and file with the presiding officer of each house of the legislature a complete and detailed written report describing the activities of the office relating to this state's participation in the Interstate Compact to Conserve Oil and Gas and accounting for all funds received and disbursed by the office during the preceding fiscal year. The report must be included as a part of the annual financial report of the governor's office.

[Acts 1983, 68th Leg., p. 93, ch. 14, § 1, eff. Aug. 29, 1983.]

§ 90.0032. Application of Sunset Act

The office of the Interstate Oil Compact Commissioner for Texas is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1995.

[Acts 1983, 68th Leg., p. 93, ch. 14, § 1, eff. Aug. 29, 1983.]

§ 90.004. Extension

(a) The continuous extension of the Interstate Compact to Conserve Oil and Gas until September 1, 1951, by an agreement executed by the governor in the name of the State of Texas with other states currently members of the Interstate Oil Compact Commission was authorized by the legislature, subject to the approval of Congress, in:

- (1) Chapter 217, Acts of the 45th Legislature, Regular Session, 1937;
- (2) Chapter 2, Special Laws, page 527, Acts of the 46th Legislature, Regular Session, 1939;
- (3) Chapter 63, Acts of the 47th Legislature, Regular Session, 1941;
- (4) Chapter 15, Acts of the 48th Legislature, Regular Session, 1943; and
- (5) Chapter 52, Acts of the 50th Legislature, Regular Session, 1947.

(b) The governor may execute agreements in the name of the State of Texas for the further exten-

sion of the expiration date of the Interstate Compact to Conserve Oil and Gas.

[Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 90.005. Form of Agreement

The agreement to extend the Interstate Compact to Conserve Oil and Gas, which the governor is authorized to execute for the state, shall be in substance as follows:

"It is hereby agreed that the Interstate Compact to Conserve Oil and Gas executed in the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, be and the same is hereby extended for a period of four (4) years from its date of expiration (September 1, 1947), this agreement to become effective when executed by any three (3) of the States of Texas, Oklahoma, California, Kansas and New Mexico, and consent thereto is given by Congress."

[Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 90.006. Withdrawal From Compact

(a) The governor may determine if and when it is in the best interest of the state to withdraw from the compact as provided by its terms on 60 days' notice.

(b) If the governor determines that the state should withdraw from the compact, he has full authority to give necessary notice and take any steps necessary and proper to effect the withdrawal of the State of Texas from the compact.

[Acts 1977, 65th Leg., p. 2557, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 90.007. Text of Compact

The Interstate Compact to Conserve Oil and Gas reads as follows:

AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

ARTICLE I

This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three (3) of the States of Texas, Oklahoma, California, Kansas and New Mexico have ratified, and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

ARTICLE II

The purpose of this Compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

ARTICLE III

Each state bound hereby agrees that within a reasonable time it will enact laws, or if laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

(a) The operation of any oil well with an inefficient gas-oil ratio;

(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities;

(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well;

(d) The creation of unnecessary fire hazards;

(e) The drilling, equipping, locating, spacing, or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof;

(f) The inefficient, excessive, or improper use of the reservoir energy in producing any well.

The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

ARTICLE IV

Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid order and/or gas conservation statutes or any valid rule, order, or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

ARTICLE V

It is not the purpose of this Compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

ARTICLE VI

Each state joining herein shall appoint a representative to a Commission hereby constituted and designated as The Interstate Oil Compact Commission, the duty of which said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas; and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

No action shall be taken by the Commission, except: (1) by the affirmative votes of the majority of the whole number of the compacting states, represented at any meeting; and (2) by a concurring vote of a majority in interest of the compacting states at said meeting, such interest to be determined as follows: Such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

ARTICLE VII

No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

ARTICLE VIII

This Compact shall expire September 1, 1937. But any state joining herein may, upon sixty (60) days notice, withdraw herefrom.

The representatives of the signatory states have signed this agreement in a single original, which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory states.

This Compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

[Acts 1977, 65th Leg., p. 2557, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 91. PROVISIONS GENERALLY APPLICABLE

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SUBCHAPTER A. GENERAL PROVISIONS

§ 91.001. Definitions

In this chapter:

- (1) "Commission" means the Railroad Commission of Texas.
(2) "Gas" means natural gas.
(3) "Oil" means crude oil and crude petroleum oil.

[Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 91.002 to 91.010 reserved for expansion]

SUBCHAPTER B. DUTIES RELATING TO OIL AND GAS WELLS

§ 91.011. Casing

Before drilling into the oil or gas bearing rock, the owner or operator of a well being drilled for oil or gas shall encase the well with good and sufficient wrought iron or steel casing in a manner that will exclude surface or fresh water from the lower part of the well from penetrating the oil or gas bearing rock, and if the well is drilled through the first into the lower oil or gas bearing rock, the well shall be cased in a manner that will exclude fresh water above the last oil or gas bearing rock penetrated.

[Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.012. Water in Wells

(a) In boring any well for oil or gas, if a person pierces any cap rock or other geological formation in a manner that will cause a flow of salt water or fresh water injurious to an already bored oil well or

any oil or gas deposits and that will probably result in the injury of the oil or gas field or already bored oil or gas well, the person shall abandon immediately all work on the well if the flow of water cannot be cased off and shall plug and fill the well in a manner and with materials that will stop the flow of the water.

(b) No well owner or person boring a well described under Subsection (a) of this section may remove the casing from the drilled well until the flow of water is stopped either by casing off or plugging the well.

(c) The provisions of this section apply only if the cap rock or other formation is pierced at a depth below the horizon at which oil or gas has been discovered already.

[Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.013. Plugging and Shutting in Wells by Others

(a) If the owner of a well described in Subsection (a) of Section 91.012 of this code neglects or refuses to have the well plugged or shut in for more than 20 days after written notice is given to him, the owner or operator of adjacent or neighboring land may enter the premises on which the well is located and have the well plugged if it is an abandoned well or shut in if it is not abandoned, in the manner provided by law.

(b) Notice may be given to the owner of the well either by personal service on the owner or by posting the notice at a conspicuous place at or near the well.

(c) The reasonable cost and expense incurred in plugging or shutting in the well shall be paid by the owner of the well and may be recovered as debts of like amount are recovered under the law.

[Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.014. Petition to Restrain Waste

(a) In addition to any other penalties, a district judge, in term time or vacation time, shall hear and determine any petition that is filed to restrain the waste of gas in violation of this subchapter and may issue mandatory or restraining orders that in his judgment are necessary.

(b) The petition may be filed by any citizen of this state and does not have to allege further financial interest of the petitioner in the state's natural resources than that possessed in common with all citizens of the state.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.015. Prevention of Waste

Operators, contractors, drillers, pipeline companies, and gas distributing companies that drill for or produce oil or gas or pipe oil or gas for any purpose shall use every possible precaution in accordance with the most approved methods to stop and prevent waste of oil, gas, or both oil and gas in drilling and producing operations, storage, piping, and distribution and shall not wastefully use oil or gas or allow oil or gas to leak or escape from natural reservoirs, wells, tanks, containers, or pipes.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.016. Confining Gas to Original Stratum

(a) If gas located in a gas-bearing stratum known to contain gas in paying quantities is encountered in a well drilled for oil or gas in this state, the gas shall be confined to its original stratum until it can be produced and used without waste.

(b) Gas-bearing strata shall be adequately protected from infiltrating water.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.017. Using Gas in the Open Air

(a) Any person who uses gas in lights in the open air or in or around derricks shall turn off the gas not later than 8 a. m. of each day the lights are burning or are used and shall not turn the lights on or relight them between 8 a. m. and 5 p. m.

(b) The person consuming the gas and using the burners in the open air shall enclose them in glass globes or lamps.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.018. Illumination

No person, copartnership, or corporation may use gas for illuminating purposes in flambeau lights. The use of "jumbo" burners or other burners consuming no more gas than the "jumbo" burners is not prohibited.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 91.019 to 91.050 reserved for expansion]

SUBCHAPTER C. STANDARD GAS MEASUREMENT

§ 91.051. Title

This subchapter may be cited as the Standard Gas Measurement Law.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.052. Definition

(a) The term "cubic foot of gas" or "standard cubic foot of gas" means the volume of gas contained in one cubic foot of space at a standard pressure base and at a standard temperature base.

(b) The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit. If the conditions of pressure and temperature differ from this standard, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the ideal gas laws, corrected for deviation.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.053. Commission Determination

The commission shall determine the average temperature of gas as produced in each oil and gas field in Texas, other variable factors necessary to calculate the metered volumes in accordance with the ideal gas laws, and the variable factors to correct for deviation from the ideal gas laws in each of the oil and gas fields in the state.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.054. Notice and Hearing

On request of any interested person, the commission shall give proper notice and hold a public hearing before making a determination under Section 91.053 of this code.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.055. Findings and Rules

On making the determination, the commission promptly shall make its findings and shall adopt reasonable field rules that may be necessary to effectuate the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.056. Use of Findings and Field Rules

(a) Any person may use the findings and field rules of the commission for any purposes under this subchapter.

(b) If the findings or field rules are not used as provided in Subsection (a) of this section in determining volumes under this subchapter, the volumes otherwise determined shall be corrected to the basis of the standard cubic foot of gas as defined in Section 91.052 of this code.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.057. Method of Reporting

A person required to report volumes of gas under the laws of this state shall report the volumes in number of standard cubic feet calculated and determined under the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.058. Sale, Purchase, Delivery, and Receipt of Gas

(a) Each sale, purchase, delivery, and receipt of gas by volume made in this state by, for, or on behalf of an oil and gas lease owner, royalty owner under a lease, or other mineral interest owner shall be made and the gas shall be measured, calculated, purchased, delivered, and accounted for on the basis of a standard cubic foot of gas as defined in this subchapter and determined under this subchapter.

(b) If the provisions of this subchapter operate to change the basis of measurement provided in existing contracts, the price for gas, including royalty gas, provided for in the contracts shall be adjusted to compensate for the change in the method of measuring the volume of gas delivered under the contracts if either the purchaser or seller so desires.

(c) This section is intended to protect parties to contracts in existence on October 4, 1949, so that the total amount of money paid for a volume of gas purchased or required to be accounted for under these contracts shall remain unaffected by this subchapter.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.059. Constitutionality

If the provisions of Section 91.058 of this code or any part of that section are held to be invalid or unconstitutional by the courts, the remaining portions of this subchapter shall become ineffective and inoperative.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.060. Repealed by Acts 1983, 68th Leg., p. 5267, ch. 967, § 16, eff. Sept. 1, 1983

For applicability of 1983 repealing act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

See, now, § 91.352.

§ 91.061. Civil Suit

None of these provisions shall prevent an aggrieved person from maintaining a civil suit for damages in the county or counties in which the gas is produced.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.062. Applicability of Certain Provisions

None of the provisions of Sections 91.058 through 91.061 of this code affect or apply to purchases or sales made on any basis other than a volume basis.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 91.063 to 91.100 reserved for expansion]

SUBCHAPTER D. PREVENTION OF POLLUTION**§ 91.101. Rules and Orders**

To prevent pollution of surface water in the state, and of subsurface water suitable for domestic or livestock use, irrigation of crops, or industrial use, that would or might result from the escape or release of oil, salt water, other mineralized water, or other oil and gas waste from any well or operations in connection with any well, the commission shall adopt and enforce rules and orders and may issue permits relating to:

- (1) the drilling of exploratory wells and oil and gas wells or any purpose in connection with them;
- (2) the production of oil and gas;
- (3) the operation, abandonment, and proper plugging of these wells; and
- (4) the discharge, storage, handling, transportation, reclamation, or disposal of oil and gas waste.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.]

§ 91.1011. Oil and Gas Waste

In this subchapter, "oil and gas waste" means waste that arises out of or incidental to the drilling for or producing of oil or gas, or waste arising out of or incidental to the underground storage of hydrocarbons other than the storage in artificial tanks or containers and includes salt water, brine, sludge, drilling mud, and other liquid, semiliquid, or solid waste material.

[Acts 1983, 68th Leg., p. 5260, ch. 967, § 7, eff. Sept. 1, 1983.]

§ 91.1012. Access to Property and Records

Members and employees of the commission, on proper identification, may enter public or private property to inspect and investigate conditions relating to the quality of water in the state, to inspect and investigate conditions relating to development of rules, orders, or permits issuable under Section 91.101 of this code, to monitor compliance with a rule, permit, or other order of the commission, or to examine and copy, during reasonable working hours, those records or memoranda of the business being investigated. Members or employees acting under the authority of this section who enter an establishment on public or private property shall

observe the establishment's safety, internal security, and fire protection rules.

[Acts 1983, 68th Leg., p 5260, ch. 967, § 7, eff. Sept. 1, 1983.]

§ 91.102. Additional Personnel

The commission is directed to employ additional personnel necessary to administer this subchapter and related laws and rules and orders adopted by the commission.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.]

§ 91.103. Persons Required to Execute Bond

(a) Before approval of an application, the commission may require the following persons to execute and file with the commission a bond:

- (1) an applicant to drill a new well or redrill or deepen an old well;
- (2) an operator who has acquired a producing well and who is requesting authorization to connect a producing well or wells to a pipeline or other outlet; and
- (3) an operator filing a well potential form who has reworked and brought into production a previously nonproducing well, resulting in making an application for an allowable for production of oil and gas from the well.

(b) The commission may require the filing of a bond by any operator seeking an exception to the well plugging requirements established by law or rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.]

§ 91.104. Amount of Bond

The commission may require that the bond be in an amount equal to the cost of plugging each well or in a blanket amount designed to assure the proper plugging of all wells drilled, to be drilled, or to be operated in this state.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.]

§ 91.105. Bond Conditions

Each bond shall be conditioned that the operator will plug and abandon the well in accordance with the law of the state and the rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Renumbered from § 91.106 by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.]

A former § 91.105 was deleted by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983. For subject matter of former § 91.05, see, now § 91.104.

§ 91.106. Execution of Bond

Each bond shall be executed by a corporate surety authorized to do business in this state and shall be renewed and be continued in effect until the conditions have been met or release is authorized by the commission.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Renumbered from § 91.107 by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.]

A former § 91.106 was renumbered as § 91.105 by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.

§ 91.107. New Bond

If a well covered by a bond is transferred, sold, or assigned by its operator, the commission may require the party acquiring the well to execute a new bond, and the bond of the prior operator shall remain in effect until the new bond is provided or filing of the bond is waived.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Renumbered from § 91.108 by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.]

A former § 91.107 was renumbered as § 91.106 by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.

§ 91.108. Deposit of Funds

Proceeds from bonds required pursuant to state well plugging requirements shall be deposited in the state well plugging fund.

[Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.]

A former § 91.108 was renumbered as § 91.107 by Acts 1983, 68th Leg., p. 5258, ch. 967, § 6, eff. Sept. 1, 1983.

[Sections 91.109 to 91.140 reserved for expansion]

**SUBCHAPTER E. BOOKS, RECORDS,
AND REPORTS**

§ 91.141. Books and Records

(a) Owners and operators of oil and gas wells shall keep books that show accurately:

- (1) the amount of sold and unsold stock;
- (2) the amount of promotion money paid;
- (3) the amount of oil and gas produced and disposed of and the price for which the oil and gas was sold;
- (4) the receipts from the sale or transfer of leases or other property; and
- (5) disbursements made in connection with or for the benefit of the business.

(b) The books shall be kept open for the inspection of the commission or any accredited representative of the commission and any stockholder or shareholder or royalty owner in the business.

(c) The owners and operators of oil and gas wells shall report the information to the commission for

its information if required by the commission to do so.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.142. Report to Commission

A person, firm, partnership, joint stock association, corporation, or other domestic or foreign organization operating wholly or partially in this state and acting as principal or agent for another for the purpose of drilling, owning, or operating an oil or gas well or owning or controlling leases of oil and mineral rights or the transportation of oil or gas by pipeline shall file immediately with the commission:

- (1) the name of the company or organization;
- (2) the post-office address of the company or organization;
- (3) the plan under which the company or organization was organized;
- (4) the names and post-office addresses of the trustee or trustees of the company or organization; and
- (5) the names and post-office addresses of the officers and directors.

[Acts 1977, 65th Leg., p. 2565, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 91.143. False Applications, Reports, and Documents and Tampering With Gauges

(a) A person is guilty of a felony and on conviction shall be punished by imprisonment in the state penitentiary for not less than two years but not more than five years or by a fine of not more than \$10,000 or by both if:

- (1) he makes or subscribes any application, report, or other document required or permitted to be filed with the commission by the provisions of Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, knowing that the application, report, or other document is false or untrue in a material fact;
- (2) he aids or assists in, or procures, counsels, or advises the preparation or presentation of any of these applications, reports, or other documents that are fraudulent, false, or incorrect in any material matter, knowing them to be fraudulent, false, or incorrect in any material matter;
- (3) he knowingly simulates or falsely or fraudulently executes or signs such an application, report, or other document;
- (4) he knowingly procures these applications, reports, or other documents to be falsely or fraudulently executed, or advises, aids in, or connives at this execution; or
- (5) he knowingly renders inaccurate any monitoring device required to be maintained by a commission rule, order, or permit.

(b) If other penalties prescribed in Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, overlap offenses that are also punishable under this section, the penalties prescribed in this section shall be in addition to other penalties.

(c) No application, report, or other document required or permitted to be filed with the commission under Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, may be required to be under oath, verification, acknowledgment, or affirmation.

[Acts 1977, 65th Leg., p. 2565, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, § 1, eff. Sept. 1, 1983.]

For applicability of 1983 amendatory act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

SUBCHAPTER F. UNDERGROUND NATURAL GAS STORAGE AND CONSERVATION

Acts 1977, 65th Leg., p. 971, ch. 366, effective August 29, 1977, classified as Civil Statutes art. 6066e, was repealed by § 9 of Acts 1979, 66th Leg., p. 2007, ch. 785, which by § 3 thereof incorporated the provisions of the 1977 Act into the Natural Resources Code by adding this Subchapter F, consisting of §§ 91.171 to 91.184.

§ 91.171. Short Title

This subchapter may be cited as the Underground Natural Gas Storage and Conservation Act of 1977.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.172. Declaration of Policy

The underground storage of natural gas promotes the conservation of natural gas, permits the building of reserves for orderly withdrawal in periods of peak demand, makes more readily available natural gas resources to residential, commercial, and industrial customers of this state, provides a better year-round market to the various gas fields, and promotes the public interest and welfare of this state.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.173. Definitions

In this subchapter:

(1) "Person" means any natural person, partnership or other combination of natural persons, corporation, group of corporations, trust, or governmental entity.

(2) "Gas utility" means a gas utility as defined in Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), or Article

6050, Revised Civil Statutes of Texas, 1925, as amended.

(3) "Natural gas" means any gaseous material composed predominantly of the following hydrocarbons or mixtures thereof: methane, ethane, propane, butane (normal or isobutane), in either its original or manufactured state, or gas which has been processed to separate it into one or more of its component parts after its withdrawal from the earth.

(4) "Native gas" means:

(A) natural gas which has not previously been withdrawn from the earth; or

(B) natural gas which has been withdrawn from the storage facility, processed, and reinjected into the storage facility.

(5) "Storage facility" means any subsurface sand, stratum, or formation used or to be used for the underground storage of natural gas and all surface and subsurface rights and appurtenances necessary to the operation of a facility for the underground storage of natural gas.

(6) "Storer" means (A) a gas utility, (B) a wholly owned subsidiary of a gas utility, (C) the parent corporation of a gas utility, or (D) a wholly owned subsidiary of a parent corporation which also wholly owns a subsidiary gas utility, but a non-utility storer included in category (B), (C), or (D) must operate the storage facility pursuant to a contract with its affiliated gas utility that provides that all withdrawals of natural gas from the storage facility must be delivered to the affiliated gas utility.

(7) "Substantially depleted" means that at least 75 percent of the estimated volume of recoverable native gas reserves originally in place in any gas-bearing sand, formation, or stratum have been withdrawn from the sand, formation, or stratum.

(8) "Interested person" means any person who enters an appearance at the commission hearing required by Section 91.174 of this code.

(9) "Commission" means the Railroad Commission of Texas.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.174. Findings of Commission

(a) Any storer desiring to exercise the right of eminent domain for the acquisition of a storage facility shall, as a condition precedent to the filing of its petition in the appropriate court, obtain from the commission an order finding:

(1) that the underground formation or stratum sought to be acquired is classified by the commission as a gas reservoir and is suitable for the underground storage of natural gas and that the storage of natural gas is necessary for the gas

utility to provide adequate service to the public and is in the public interest;

(2) that the use of the formation or stratum as a storage facility will cause no injury to surface or underground water resources;

(3) that the formation or stratum does not contain native gas producible in paying quantities unless the the recoverable volumes of native gas originally in place are substantially depleted and unless the formation or stratum has a greater value of ultimate use to the consuming public as a storage facility to ensure an adequate supply of natural gas or for the conservation of natural gas than the production of native gas which remains;

(4) the extent of the horizontal limits of the reservoir expected to be penetrated by displaced or injected gas; and

(5) that no portion of the formation or stratum sought to be acquired has been condemned or is being utilized for the injection, storage, and withdrawal of gas by others.

(b) The designation of a storage facility does not prevent any storer from instituting additional proceedings in the event it is later determined that the underground reservoir should be extended to prevent the escape, displacement, or withdrawal by others of injected gas.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.175. Commission Jurisdiction

The commission shall have jurisdiction to supervise the construction and operation of all storage facilities formed pursuant to this subchapter, and in addition to the findings required by Section 91.174 of this code, the commission shall include in any order of approval a requirement that the storer file a report each month, including each month prior to the time the storage facility is in operation, with the commission showing, for that month, the volume of gas injected and stored gas withdrawn from storage.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.176. Withdrawal of Native Gas

A storer may withdraw from storage injected and stored gas as market demand dictates. However, any time a storer's withdrawals from a storage facility equal the volume of gas injected for storage, the storer shall not withdraw additional gas from the storage facility without first obtaining specific authority from the commission.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.177. Storage Operations Must be Bona Fide

(a) A storer must initiate injection operations for gas storage within 12 months after the condemna-

tion order of the court becomes final and storage operations must continue with reasonable diligence after that time.

(b) Should the monthly reports to the commission indicate that bona fide underground gas storage operations are not being conducted, the commission may, on its own motion or on motion of any interested person, schedule a public hearing, giving the storer the opportunity to show cause why the commission approval of the project should not be withdrawn.

(c) If the commission finds that the storage project is not being conducted in a bona fide manner, it shall issue an order withdrawing approval of the storage facility, and all property, both mineral and surface, that was condemned by the storer shall revert to those who owned the property at the time of condemnation or their successors.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.178. Relocation of Facilities

In the event the acquisition or operation of a storage facility acquired through the exercise of the power of eminent domain requires the relocation or alteration of any railroad, electric, telegraph, telephone, or pipeline lines or facilities, the expense of the relocation or alteration shall be borne by the storer. The expense of relocation means the actual cost incurred in providing a comparable replacement line or facility, less net salvage value from the sale or other disposition of the old facility.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.179. Appropriation of Storage Facilities; Limitations

After an order of the commission is issued approving a storage facility, a storer may condemn without further attack as to its right to condemn, any subsurface sand, stratum, or formation for the underground storage of natural gas, condemning all mineral and royalty rights as are reasonably necessary for the operation of the storage facility, subject to the limitations of this subchapter, and the storer may condemn any other interests in property that may be required, including interests in the surface estate in the sand, stratum, or formation reasonably necessary to the operation of the storage facility, provided that:

(1) no part of a reservoir is subject to condemnation unless the storer has acquired by option, lease, conveyance, or other negotiated means at least 66-2/3 percent of the ownership of minerals, including working interests, and 66-2/3 percent of the ownership of the royalty interests, computed in relation to the surface area overlying the part of the reservoir which as found by the commis-

sion to be expected to be penetrated by displaced or injected gas;

(2) no dwelling, barn, store, or other building is subject to condemnation; and

(3) the right of condemnation is without prejudice to the rights of the owners or holders of other rights or interests of land to drill through the storage facility under such terms and conditions as the commission may prescribe for the purpose of protecting the storage facility against pollution or escape of natural gas and is without prejudice to the rights of the owners or holders of other rights or interests of the land to all other uses so long as those uses do not interfere with the operation of the storage facility.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.180. Institution of Condemnation Proceedings

(a) The finding by the commission that underground storage is in the public interest is binding on all persons whose property the storer has the right to condemn. After that finding of the commission, the storer has the right to condemn all of the underground storage area and any surface area required for the use and enjoyment of the storage facility.

(b) The storer shall initiate eminent domain proceedings in the court having jurisdiction in the area in which a portion of the land is situated. The petition shall set forth the purpose for which the property is sought to be acquired, a description of the sand, stratum, or formation and of the land under which it is alleged to be contained, the names of the owners as shown by the deed records of the county, and a description of all other property and rights sought to be appropriated for use in connection with the storage facility, including any parts of the surface necessary for any facilities incidental to the operation of the storage facility.

(c) The petition shall state facts showing that the storer has obtained the findings of the commission required by Section 91.174 of this code, that the storer in good faith has been unable to acquire the rights sought to be appropriated, that the storer has acquired, prior to the filing of the petition, by any means other than condemnation, at least 66-2/3 percent of the ownership of the minerals, including working interests, and 66-2/3 percent of the royalty interests of the property rights in the storage facility required for that purpose, and shall describe the surface area overlying the storage facility the storer seeks to acquire and the names of the owners of those rights and interests.

(d) Where more than one tract of land is involved, all or any tracts may be joined in one proceeding, without prejudice to the right of the storer to institute additional proceedings; provided, that the fail-

ure to make service upon a defendant does not affect the right of the storer to proceed against any or all other of the defendants upon whom service has been made.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.181. Exercise of Right of Eminent Domain

All proceedings in connection with the condemnation and acquisition of storage facilities shall be in accordance with Articles 3264 through 3271, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of any conflict between those articles and this subchapter, the provisions of this subchapter prevail.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.182. Ownership of Stored Gas

All natural gas in the stratum condemned which is not native gas, and which is subsequently injected into storage facilities is personal property and is the property of the injector or its assigns, and in no event is the gas subject to the right of the owner of the surface of the land or of any mineral or royalty owner's interest under which the storage facilities lie, or of any person other than the injector to produce, take, reduce to possession, either by means of the law of capture or otherwise, waste, or otherwise interfere with or exercise any control over a storage facility. Upon failure, neglect, or refusal of the person to comply with this section, the storer has the right to compel compliance by injunction or by other appropriate relief by application to a court of competent jurisdiction.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.183. Rights of Purchasers of Native Gas

(a) In the event there are remaining reserves of native gas in the storage facility which are dedicated to a purchaser and the purchaser and storer are unable to agree on an equitable settlement of rights with respect to the remaining native gas within a period of time that will prevent interference with the operation of the storage facility, the storer or purchaser may apply to the commission for an adjudication concerning remaining reserves of native gas.

(b) Upon application, the commission shall direct a settlement of remaining reserves of native gas that is equitable to all parties, but which does not interfere with the public benefits arising from the operation of the storage facility.

(c) In addition to any other disposition that is equitable to all parties, the commission may make a finding of the quantity of remaining recoverable native gas and an allocation of future production on a reasonable production schedule and order delivery

to the purchaser by the storer of the amounts of native gas that the commission finds would have been taken by the purchaser during the term of the purchase agreement.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

§ 91.184. Abandonment

(a) When a storer has permanently abandoned the storage facility, the storer shall file with the commission a notice of abandonment, and shall file an instrument in the deed records in the appropriate county or counties, stating that the storage has ceased, and that all property, both mineral and surface, condemned by the storer has reverted to those who owned the property at the time of condemnation, or their heirs, successors, or assigns.

(b) The storer shall also file in the deed records in the appropriate county or counties a list of the owners of the mineral, royalty, and surface owners to whom the various interests have reverted, together with an affidavit that the storer has compiled the list from a current examination of title records and that the list is true and correct to the best of the knowledge of the affiant.

[Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

**SUBCHAPTER G. UNDERGROUND
HYDROCARBON STORAGE**

§ 91.201. Definitions

In this subchapter:

(1) "Underground hydrocarbon storage facility" or "storage facility" means a subsurface sand, stratum, or geological formation used for the underground storage of hydrocarbons, and includes surface or subsurface rights and appurtenances necessary for the operation of the facility.

(2) "Hydrocarbons" means oil, gas, or products of oil or gas, as those terms are defined by Section 85.001 of this code.

(3) "Waste" means surface or subsurface waste, as defined by Section 85.046 of this code, of hydrocarbons, including, but not limited to, the physical or economic waste or loss of hydrocarbons in the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility.

(4) "Commission" means the Railroad Commission of Texas.

[Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

§ 91.202. Policy

It is the policy of this state and the purpose of this subchapter to prevent the waste of oil, gas, and

products of oil or gas, to protect the ground and surface water of the state from unreasonable degradation, and to protect the public health, welfare, and physical property in the creation, operation, maintenance, and abandonment of underground hydrocarbon storage facilities.

[Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

§ 91.203. Authority; Rules

(a) The commission shall supervise or monitor the construction, operation, maintenance, and closure of storage facilities.

(b) The commission may adopt reasonable rules or issue reasonable orders to implement the policies of this subchapter and may establish minimum standards regulating the creation, operation, maintenance, and abandonment of underground hydrocarbon storage facilities. The rules and standards of the commission may include, but are not limited to, requirements for monitoring, recordkeeping, and reporting, the drilling and creation of the facility, selecting the site of the facility, and for proper closure of the facility on abandonment.

[Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

§ 91.204. Permits

(a) The commission by rule may require a person who creates, operates, maintains, or abandons an underground hydrocarbon storage facility to obtain a permit from the commission. A permit issued by the commission may contain provisions and conditions necessary to implement the policies of this subchapter. The commission may adopt reasonable rules for the amendment, revocation, transfer, or suspension of a permit.

(b) A person desiring to obtain a permit or to amend a permit must submit an application containing the information required by the commission.

[Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

§ 91.205. Authority to Enter Property

Members and employees of the commission may enter public or private property at reasonable times to inspect and investigate conditions relating to the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility. The members and employees may not enter private property having management in residence without notifying the management of their presence and shall observe safety, internal security, and fire protection rules of the establishment being inspected.

[Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

§ 91.206. Authority to Examine Records

Members and employees of the commission may examine and copy during regular business hours records pertaining to the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility.

[Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

§ 91.207. Notice of Noncompliance

(a) On receipt of notice from the commission that a person creating, operating, maintaining, or abandoning an underground hydrocarbon storage facility has violated this subchapter or a term, condition, or provision of a permit issued under this subchapter, an operator of the pipeline or other carrier connected to the facility shall disconnect from the facility and shall remain disconnected from the facility until notice of compliance has been received from the commission.

(b) On receipt of notice from the commission of a violation of this subchapter, a rule of the commission issued under this subchapter, or a term, condition, or provision of a permit issued under this subchapter, the owner or operator of an underground hydrocarbon storage facility shall discontinue any removal of hydrocarbons from the facility or any addition of hydrocarbons to the facility and may not begin or renew removal of hydrocarbons from the facility or begin or renew addition of hydrocarbons to the facility until notice of compliance has been received from the commission.

[Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

Section 6 of the 1981 Act provides:

"Sections 91.207 and 91.208, Natural Resources Code, apply only to violations of Subchapter G of Chapter 91 of that code and of rules and permits that occur on or after the effective date of this Act. Authorizations for hydrocarbon storage facilities issued before the effective date of this Act continue in effect under their terms until amended, revoked, or suspended by the commission and the storage facilities continue to be governed by those authorizations."

§§ 91.208 to 91.210. Repealed by Acts 1983, 68th Leg., p. 5267, ch. 967, § 16, eff. Sept. 1, 1983

For applicability of 1983 repealing act to offenses committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

See, now, § 91.352.

SUBCHAPTER J. ENFORCEMENT

§ 91.351. Criminal Penalty

(a) A person who wilfully or with criminal negligence violates Section 91.101 of this code or a rule, order, or permit of the commission issued under that section commits an offense.

(b) An offense under Subsection (a) of this section is punishable by a fine of not more than \$10,000 a day for each day a violation is committed.

(c) Venue for prosecution of an alleged violation of this section is in a court of competent jurisdiction in the county in which the violation is alleged to have occurred.

[Acts 1983, 68th Leg., p. 5262, ch. 967, § 9, eff. Sept. 1, 1983.]

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

§ 91.352. Additional Enforcement Authority

In addition to other authority specifically granted to the commission under this chapter, the commission may enforce this chapter or any rule, order, or permit of the commission adopted under this chapter in the manner and subject to the conditions provided in Chapters 81 and 85 of this code, including the authority to seek and obtain civil penalties and injunctive relief as provided by those chapters.

[Acts 1983, 68th Leg., p. 5262, ch. 967, § 9, eff. Sept. 1, 1983.]

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

SUBCHAPTER K. PAYMENT FOR PROCEEDS OF SALE

Acts 1983, 68th Leg., p. 966, ch. 228, § 1, added this Subchapter K, consisting of §§ 91.401 to 91.405. For text of another Subchapter K, Saltwater Disposal Pits, consisting of §§ 91.451 to 91.459, added by Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, see Subchapter K, post.

§ 91.401. Definitions

In this subchapter:

(1) "Payee" means any person or persons legally entitled to payment from the proceeds derived from the sale of oil or gas from an oil or gas well located in this state.

(2) "Payor" means the first purchaser of production of oil or gas from an oil or gas well, but the owner of the right to produce under an oil or gas lease or pooling order is deemed to be the payor if the owner of the right to produce and the first purchaser have entered into arrangements providing that the proceeds derived from the sale of oil or gas have been paid by the first purchaser to the owner who assumes the responsibility of paying those proceeds to the payee.

[Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983.]

§ 91.402. Time for Payment of Proceeds

(a) The proceeds derived from the sale of oil or gas production from an oil or gas well must be paid to each payee on or before 120 days after the end of the month of first purchase by a payor. After that time, payments must be made to each payee on a timely basis according to the frequency of payment specified in a lease or other written agreement between payee and payor. If the lease or other agreement does not specify the time for payment, subsequent proceeds must be paid no later than:

- (1) 60 days after the end of the calendar month in which subsequent oil production is sold; or
- (2) 90 days after the end of the calendar month in which subsequent gas production is sold.

(b) Payments may be remitted to payees annually for the aggregate of up to 12 months' accumulation of proceeds, if the total amount owed is \$25 or less.

[Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983.]

§ 91.403. Payment of Interest on Late Payments

(a) If payment has not been made for any reason in the time limits specified in Section 91.402(a) of this code, the payor must pay interest to a payee beginning at the expiration of those time limits at the rate charged on loans to depository institutions by the New York Federal Reserve Bank, unless a different rate of interest is specified in a written agreement between payor and payee.

(b) Subsection (a) of this section does not apply where payments are withheld or suspended by a payor beyond the time limits specified in Section 91.402(a) of this code because there is:

- (1) a dispute concerning title that would affect distribution of payments;
- (2) a reasonable doubt that the payee does not have clear title to the interest in the proceeds of production; or
- (3) a requirement in a title opinion that places in issue the title, identity, or whereabouts of the payee and that has not been satisfied by the payee after a reasonable request for curative information has been made by the payor.

[Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983.]

§ 91.404. Nonpayment of Oil and Gas Proceeds or Interest

(a) If a payee seeks relief for the failure of a payor to make timely payment of proceeds from the sale of oil or gas or an interest in oil or gas as required under Section 91.402 or 91.403 of this code, the payee must give the payor written notice by mail of that failure as a prerequisite to beginning judicial action against the payor for nonpayment.

(b) The payor has 30 days after receipt of the required notice from the payee in which to pay the

proceeds due, or to respond by stating in writing a reasonable cause for nonpayment.

(c) A payee has a cause of action for nonpayment of oil or gas proceeds or interest on those proceeds as required in Section 91.402 or 91.403 of this code in any court of competent jurisdiction in the county in which the oil or gas well is located.

[Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983.]

§ 91.405. Exemptions

This subchapter does not apply to any royalties that are payable to:

(1) the board of regents of The University of Texas System under a lease of land dedicated to the permanent university fund; or

(2) the General Land Office as provided by Subchapter D, Chapter 52, of this code.¹

[Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983.]

¹ Section 52.131 et seq.

SUBCHAPTER K. SALTWATER DISPOSAL PITS

Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, added this Subchapter K, consisting of §§ 91.451 to 91.459. For text of another Subchapter K, Payment for Proceeds of Sale, consisting of §§ 91.401 to 91.405, see Subchapter K, ante.

§ 91.451. Definition

In this subchapter, "saltwater disposal pit" means a collecting pit on the surface of the ground used to store or evaporate oil field brines, geothermal resource water, or other mineralized water.

[Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.]

§ 91.452. Prohibited Activity

Except as provided by this subchapter, a person conducting oil and gas development or production operations, geothermal operations, or underground hydrocarbon storage operations may not use a saltwater disposal pit for storage or evaporation of oil field brines.

[Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.]

§ 91.453. Commission Authorized

(a) On written application, the commission or its designated employee may administratively authorize a person to use a saltwater disposal pit on a temporary emergency basis.

(b) On written application, the commission or its designated employee may administratively authorize a person to use an impervious surface pit in

conjunction with a geothermal operation, an underground hydrocarbon storage operation, or an approved saltwater disposal operation.

(c) In cases where it may be conclusively shown that use of a saltwater disposal pit can cause no pollution of surrounding productive agricultural land and no pollution of ground or surface water supplies, either because of the absence of such waters, or due to physical isolation of such waters by naturally occurring impervious barriers, the commission or its designated employee may administratively authorize a person to use a saltwater disposal pit.

(d) An authorization under this section must be in writing and must state the conditions under which any pit may be operated.

[Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.]

§ 91.454. Removal of Authorized Pits

(a) A person who is authorized to operate a saltwater disposal pit under Section 91.453 of this code shall close the pit within 45 days after being ordered to close the pit by the commission; provided that the commission may grant an extension or extensions for a reasonable period or periods of time on a showing of good cause or upon request for an extension by the surface owner or owners of the land upon which the pit is situated.

(b) A saltwater disposal pit must be closed in compliance with this subchapter and rules, standards, and specifications adopted by the commission.

(c) In closing a saltwater disposal pit, the person authorized to operate the pit shall remove all salt water and wastes and shall backfill and compact in compliance with commission-approved procedures.

[Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.]

§ 91.455. Rules, Standards, and Specifications

(a) The commission shall adopt rules that:

(1) define the procedures for obtaining authorization to operate a saltwater disposal pit;

(2) define the conditions under which authorizations for saltwater disposal pits will be granted;

(3) establish standards for saltwater disposal pits authorized by the commission;

(4) provide for standards for the proper closing of saltwater disposal pits authorized by the commission; and

(5) provide other standards, procedures, and requirements necessary to carry out this subchapter.

(b) The commission, by rule, shall require:

- (1) liner specifications and installation procedures that are adequate to insulate a saltwater disposal pit; and
- (2) the draining, cleaning, and closing of saltwater disposal pits.

[Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.]

§ 91.456. Injunctive Relief

If a person is operating a saltwater disposal pit in violation of this subchapter or the commission's rules, standards, or specifications, the commission may have the attorney general institute a suit in a district court in the county in which the saltwater disposal pit is located for injunctive relief to restrain the person from continuing to operate the pit in violation of this subchapter or the rules, standards, or specifications of the commission.

[Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.]

§ 91.457. Removal of Unauthorized Pit

(a) The commission may order a person who is operating a saltwater disposal pit in violation of this subchapter to close the pit in compliance with this subchapter and commission rules, standards, and specifications, at the pit operator's own expense.

(b) If a person ordered to close a saltwater disposal pit under Subsection (a) of this section fails or refuses to close the pit in compliance with the commission's order and rules, the commission shall close the pit and shall direct the attorney general to file suits in any courts of competent jurisdiction in Travis County to recover applicable penalties and the costs incurred by the commission in closing the saltwater disposal pit.

[Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.]

§ 91.458. Criminal Penalty

(a) A person who violates Section 91.452 of this code or an order of the commission under Subsection (a), Section 91.457, commits an offense.

(b) An offense under this section is a Class A misdemeanor.

[Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.]

§ 91.459. Civil Penalty

(a) A person who violates this subchapter or a rule, standard, or specification of the commission or who fails to close a saltwater disposal pit in compliance with this subchapter, a rule, standard, or specification of the commission, an order of the commission, or the authorization for the pit is subject to a civil penalty of not less than \$100 nor more than \$10,000 for each act of violation or failure to comply.

(b) The attorney general shall recover the civil penalty provided by Subsection (a) of this section in a court of competent jurisdiction.

(c) Any penalties or costs recovered by the attorney general under Section 91.457 of this code shall be deposited in a saltwater disposal fund.

(d) A fund is created in the state treasury to be designated as the saltwater pit disposal fund. Money deposited in the fund and any interest earned on money deposited in the fund shall be used by the commission or its employees or agents for the purpose of closing saltwater disposal pits as provided by this subchapter.

[Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.]

CHAPTER 92. MINERAL USE OF SUBDIVIDED LAND

Sec.

- 92.001. Purpose.
- 92.002. Definitions.
- 92.003. Creation of Subdivision.
- 92.004. Hearing and Order by Railroad Commission.
- 92.005. Use of Operations Site.
- 92.006. Amendment, Replat, or Abandonment.
- 92.007. Municipal Authority.

§ 92.001. Purpose

It is the finding of the legislature that the rapidly expanding population and development of the cities and towns of this state and the concomitant need for adequate and affordable housing and suitable job opportunities call for full and efficient utilization and development of all the land resources of this state, as well as the full development of all the minerals of this state. In view of that finding, it is the intent of the legislature that the mineral resources of this state be fully and effectively exploited and that all land in this state be maintained and utilized to its fullest and most efficient use. It is the further finding of this legislature that it is necessary to exercise the authority of the legislature pursuant to Article XVI, Section 59, of the Constitution of the State of Texas to assure proper and orderly development of both the mineral and land resources of this state and that the enactment of this chapter will protect the rights and welfare of the citizens of this state.

[Acts 1983, 68th Leg., p. 4009, ch. 624, § 1, eff. Aug. 29, 1983.]

§ 92.002. Definitions

In this chapter:

- (1) "Operations site" means a surface area of two or more acres located in whole or in part within a qualified subdivision, designated on the subdivision plat, that an owner of a possessory mineral interest may use to explore for and produce minerals.

(2) "Possessory mineral interest" means a mineral interest that includes the right to use the land surface for exploration and production of minerals.

(3) "Qualified subdivision" means a tract of land of not more than 160 acres:

(A) that is located in a county having a population in excess of 400,000, or in a county having a population in excess of 140,000 that borders a county having a population in excess of 400,000;

(B) that has been subdivided in a manner authorized by law by the surface owners for residential, commercial, or industrial use; and

(C) that contains two or more operations sites and provisions for road and pipeline easements to allow use of the operations sites.

[Acts 1983, 68th Leg., p. 4009, ch. 624, § 1, eff. Aug. 29, 1983.]

§ 92.003. Creation of Subdivision

The surface owners of a parcel of land may create a qualified subdivision on the land if a plat of the subdivision has been approved by the railroad commission and filed with the clerk of the county in which the subdivision is to be located.

[Acts 1983, 68th Leg., p. 4009, ch. 624, § 1, eff. Aug. 29, 1983.]

§ 92.004. Hearing and Order by Railroad Commission

(a) The railroad commission shall adopt rules governing the contents of an application for a qualified subdivision. An application must be accompanied by a plat of the subdivision showing the applicant's proposed location of operations sites and road and pipeline easements.

(b) The railroad commission shall, on notice to the applicant and owners of possessory mineral interests, hold a hearing on the application at which the commission shall consider the adequacy of the number and location of operations sites and road and pipeline easements. At the hearing on the application, evidence may be presented by the applicant and the owners of possessory mineral interests. After considering the evidence, the commission may approve, reject, or amend the application to ensure that the mineral resources of the subdivision are fully and effectively exploited. The applicant or the owner of the possessory mineral interest may appeal the order of the railroad commission as provided by law.

[Acts 1983, 68th Leg., p. 4009, ch. 624, § 1, eff. Aug. 29, 1983.]

§ 92.005. Use of Operations Site

(a) An owner of a possessory mineral interest within a qualified subdivision may use only the surface contained in designated operations sites for

exploration, development, and production of minerals and the designated easements only as necessary to adequately use the operations sites.

(b) The owner of the possessory mineral interest may drill wells or extend well bores from an operations site or from a site outside of the qualified subdivision under the surface of other parts of the qualified subdivision if the operations do not interfere with the use of the surface of the qualified subdivision outside the operations site.

(c) This section ceases to apply to a subdivision if, by the third anniversary of the date on which the order of the commission becomes final:

(1) the surface owner has not commenced actual construction of roads or utilities within the qualified subdivision; and

(2) a lot within the qualified subdivision has not been sold to a third party.

[Acts 1983, 68th Leg., p. 4009, ch. 624, § 1, eff. Aug. 29, 1983.]

§ 92.006. Amendment, Replat, or Abandonment

All or any portion of a qualified subdivision may be amended, replatted, or abandoned by the surface owner. An amendment or replat, however, may not alter or diminish an operations site or appurtenant road or pipeline easement unless the amendment or replat is approved by the commission in accordance with Section 92.003 of this code.

[Acts 1983, 68th Leg., p. 4009, ch. 624, § 1, eff. Aug. 29, 1983.]

§ 92.007. Municipal Authority

This chapter does not affect the authority of a municipality to require approval of subdivision plats or the authority of a home-rule city to regulate exploration and development of mineral interests within its boundaries.

[Acts 1983, 68th Leg., p. 4009, ch. 624, § 1, eff. Aug. 29, 1983.]

SUBTITLE C. POOLING AND COOPERATIVE AGREEMENTS

CHAPTER 101. COOPERATIVE DEVELOPMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

- 101.001. Definition.
- 101.002. Existing Agreement Rights.
- 101.003. Applicability.
- 101.004. Conflict With Antitrust Acts.

SUBCHAPTER B. COOPERATIVE AGREEMENTS IN SECONDARY RECOVERY OPERATIONS

- 101.011. Authorized Agreements for Separately Owned Properties.

Sec.

- 101.012. Persons Bound by Agreements.
- 101.013. Commission Approval.
- 101.014. Jointly Owned Properties.
- 101.015. Commission Regulation.
- 101.016. Permissible Provisions.
- 101.017. Prohibited Provisions.
- 101.018. Effect of Approval Outside of Unit.

SUBCHAPTER C. PUBLIC LAND

- 101.051. Authority of Commissioner of General Land Office.
- 101.052. Necessary Approval by Other Persons and State Agencies.

SUBCHAPTER A. GENERAL PROVISIONS

§ 101.001. Definition

In this chapter, "commission" means the Railroad Commission of Texas.

[Acts 1977, 65th Leg., p. 2566, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.002. Existing Agreement Rights

None of the provisions in this chapter restrict any of the rights that a person now may have to make and enter into unitization and pooling agreements.

[Acts 1977, 65th Leg., p. 2566, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.003. Applicability

None of the provisions in this chapter impair the power of the commission to prevent waste under the oil and gas conservation laws of the state except as provided in Section 101.004 of this code or repeal, modify, or impair any of the provisions of Sections 85.002 through 85.003, 85.041 through 85.055, 85.056 through 85.064, 85.125, 85.201 through 85.207, 85.241 through 85.243, 85.249 through 85.252, or 85.381 through 85.385 of this code or Subchapters E and J of Chapter 85 of this code, relating to oil and gas conservation.

[Acts 1977, 65th Leg., p. 2566, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.004. Conflict With Antitrust Acts

(a) Agreements and operations under agreements which are in accordance with the provisions in this chapter, being necessary to prevent waste and conserve the natural resources of this state, shall not be construed to be in violation of the provisions of Chapter 15, Business & Commerce Code, as amended.

(b) If a court finds a conflict between the provisions in this chapter and Chapter 15, Business & Commerce Code, as amended, the provisions in this chapter are intended as a reasonable exception to that law, necessary for the public interests stated in Subsection (a) of this section.

(c) If a court finds that a conflict exists between the provisions in this chapter and Chapter 15, Business & Commerce Code, as amended, and finds that the provisions in this chapter are not a reasonable exception to said Chapter 15, it is the intent of the legislature that the provisions in this chapter, or any conflicting portion of them, shall be declared invalid rather than declaring Chapter 15, Business & Commerce Code, as amended, or any portion of it, invalid.

[Acts 1977, 65th Leg., p. 2567, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 101.005 to 101.010 reserved for expansion]

SUBCHAPTER B. COOPERATIVE AGREEMENTS IN SECONDARY RECOVERY OPERATIONS

§ 101.011. Authorized Agreements for Separately Owned Properties

Subject to the approval of the commission, as provided in this chapter, persons owning or controlling production, leases, royalties, or other interests in separate property in the same oil field, gas field, or oil and gas field may voluntarily enter into and perform agreements for either or both of the following purposes:

(1) to establish pooled units, necessary to effect secondary recovery operations for oil or gas, including those known as cycling, recycling, repressuring, water flooding, and pressure maintenance and to establish and operate cooperative facilities necessary for the secondary recovery operations;

(2) to establish pooled units and cooperative facilities necessary for the conservation and use of gas, including those for extracting and separating the hydrocarbons from the natural gas or casinghead gas and returning the dry gas to a formation underlying any land or leases committed to the agreement.

[Acts 1977, 65th Leg., p. 2567, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.012. Persons Bound by Agreements

Agreements for pooled units and cooperative facilities do not bind a landowner, royalty owner, lessor, lessee, overriding royalty owner, or any other person who does not execute them. The agreements bind only the persons who execute them, their heirs, successors, assigns, and legal representatives. No person shall be compelled or required to enter into such an agreement.

[Acts 1977, 65th Leg., p. 2567, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.013. Commission Approval

(a) Agreements for pooled units and cooperative facilities are not legal or effective until the commission finds, after application, notice, and hearing:

(1) that the agreement is necessary to accomplish the purposes specified in Section 101.011 of this code;

(2) that it is in the interest of the public welfare as being reasonably necessary to prevent waste and to promote the conservation of oil or gas or both;

(3) that the rights of the owners of all the interests in the field, whether signers of the unit agreement or not, would be protected under its operation;

(4) that the estimated additional cost, if any, of conducting the operation will not exceed the value of additional oil and gas so recovered, by or on behalf of the several persons affected, including royalty owners, owners of overriding royalties, oil and gas payments, carried interests, lien claimants, and others as well as the lessees;

(5) that other available or existing methods or facilities for secondary recovery operations or for the conservation and utilization of gas in the particular area or field concerned or for both are inadequate for the purposes; and

(6) that the area covered by the unit agreement contains only that part of the field that has reasonably been defined by development, and that the owners of interests in the oil and gas under each tract of land in the area reasonably defined by development are given an opportunity to enter into the unit on the same yardstick basis as the owners of interests in the oil and gas under the other tracts in the unit.

(b) A finding by the commission that the area described in the unit agreement is insufficient or covers more acreage than is necessary to accomplish the purposes of this chapter is grounds for the disapproval of the agreement.

[Acts 1977, 65th Leg., p. 2568, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.014. Jointly Owned Properties

None of the provisions in this chapter shall be construed to require the approval of the commission of voluntary agreements for the joint development and operation of jointly owned property.

[Acts 1977, 65th Leg., p. 2568, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.015. Commission Regulation

An agreement executed under the provisions of this chapter is subject to any valid order or rule of the commission relating to location, spacing, proration, conservation, or other matters within the au-

thority of the commission, whether adopted prior to or subsequent to the execution of the agreement.

[Acts 1977, 65th Leg., p. 2568, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.016. Permissible Provisions

(a) An agreement authorized by this chapter may provide for the location and spacing of input wells and for the extension of leases covering any part of land committed to the unit as long as operations for drilling or reworking are conducted on the unit or as long as production of oil or gas in paying quantities is had from any part of the land or leases committed to the unit. However, no agreement may relieve an operator from the obligation to develop reasonably the land and leases as a whole committed to the unit.

(b) An agreement authorized by this chapter may provide that the dry gas after extraction of hydrocarbons may be returned to a formation underlying any land or leases committed to the agreement and may provide that no royalties are required to be paid on the gas so returned.

[Acts 1977, 65th Leg., p. 2568, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.017. Prohibited Provisions

(a) No agreement authorized by this chapter may attempt to contain the field rules for the area or field, or provide for or limit the amount of production of oil or gas from the unit properties, those provisions being solely the province of the commission.

(b) No agreement authorized by this chapter may provide directly or indirectly for the cooperative refining of crude petroleum, distillate, condensate, or gas, or any by-product of crude petroleum, distillate, condensate, or gas. The extraction of liquid hydrocarbons from gas, and the separation of the liquid hydrocarbons into propanes, butanes, ethanes, distillate, condensate, and natural gasoline, without any additional processing of any of them, is not considered to be refining.

(c) No agreement authorized by this chapter may provide for the cooperative marketing of crude petroleum, condensate, distillate, or gas, or any by-products of them.

[Acts 1977, 65th Leg., p. 2569, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.018. Effect of Approval Outside of Unit

The approval of an agreement authorized by this chapter shall not of itself be construed as a finding that operations of a different kind or character in the portion of the field outside of the unit are wasteful or not in the interest of conservation.

[Acts 1977, 65th Leg., p. 2569, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 101.019 to 101.050 reserved for expansion]

SUBCHAPTER C. PUBLIC LAND

§ 101.051. Authority of Commissioner of General Land Office

Subject to the approval specified in Section 101.052 of this code, the Commissioner of the General Land Office, in behalf of the State of Texas or of any fund belonging to the state, may execute contracts committing to the agreements declared lawful by the provisions of this chapter the royalty interests in oil or gas or both reserved to the state, or any fund of the state, by law, in any patent, in any contract of sale, or under the terms of any oil and gas lease lawfully issued by an official, board, agent, agency, or authority of the state.

[Acts 1977, 65th Leg., p. 2569, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 101.052. Necessary Approval by Other Persons and State Agencies

(a) An agreement that commits the royalty interests in land 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, must be approved by the School Land Board.

(b) An agreement that covers land leased for oil and gas under the Relinquishment Act, codified as Subchapter F in Chapter 52 of this code, must be executed by the owners of the soil.

(c) An agreement that commits the royalty interests in land or areas other than those covered by Subsections (a) and (b) of this section must be approved by the board, official, agent, agency, or authority of the state vested with authority to lease or to approve the leasing of the land or areas for oil and gas.

[Acts 1977, 65th Leg., p. 2569, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 102. POOLING

SUBCHAPTER A. GENERAL PROVISIONS

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- 102.001. Title.
- 102.002. Definitions.
- 102.003. Application to Certain Reservoirs.
- 102.004. Application to Public Land.

SUBCHAPTER B. REQUIREMENTS AND PROCEDURE FOR POOLING

- 102.011. Authority of Commission.
- 102.012. Owners Authorized to Apply for Pooling.
- 102.013. Required Voluntary Pooling Offer.

Sec.

- 102.014. Productive Acreage Equal to Standard Proration Unit.
- 102.015. Prohibited Provisions in Operating Agreement.
- 102.016. Notice of Hearing.
- 102.017. Pooling Order.
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SUBCHAPTER C. RIGHTS IN A POOLED UNIT

- 102.051. Ownership of Production.
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SUBCHAPTER D. DISSOLUTION OF UNIT

- 102.081. Dissolved With Consent of Owners.
- 102.082. Automatic Dissolution.
- 102.083. Termination of Pooled Lease.

SUBCHAPTER E. JUDICIAL REVIEW

- 102.111. Right to Appeal.
- 102.112. Venue.

SUBCHAPTER A. GENERAL PROVISIONS

§ 102.001. Title

This chapter may be cited as the Mineral Interest Pooling Act.

[Acts 1977, 65th Leg., p. 2570, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.002. Definitions

In this chapter:

- (1) "Mineral" means and is limited to oil and gas.
- (2) "Commission" means the Railroad Commission of Texas.

[Acts 1977, 65th Leg., p. 2570, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.003. Application to Certain Reservoirs

The provisions of this chapter do not apply to any reservoir discovered and produced before March 8, 1961.

[Acts 1977, 65th Leg., p. 2571, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.004. Application to Public Land

(a) The provisions of this chapter do not apply to land owned by the State of Texas nor to land in which the State of Texas has an interest directly or indirectly.

(b) The provisions of this chapter do not amend, repeal, change, alter, or affect in any manner the authority or jurisdiction of the Commissioner of the General Land Office or the State of Texas with respect to any land or interest in land in which the Commissioner of the General Land Office has jurisdiction.

(c) The provisions of this chapter do not amend, repeal, change, alter, or affect in any manner the

authority, jurisdiction, or consent of the Commissioner of the General Land Office on the pooling of any interest now subject to the jurisdiction, authority, or consent of the Commissioner of the General Land Office.

(d) With the approval or consent first obtained, or at the instance of the Commissioner of the General Land Office, or any board or agency having jurisdiction, the land in which the State of Texas has an interest as described in this chapter may be pooled under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2571, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 102.005 to 102.010 reserved
for expansion]

SUBCHAPTER B. REQUIREMENTS AND PROCEDURE FOR POOLING

§ 102.011. Authority of Commission

When two or more separately owned tracts of land are embraced in a common reservoir of oil or gas for which the commission has established the size and shape of proration units, whether by temporary or permanent field rules, and where there are separately owned interests in oil and gas within an existing or proposed proration unit in the common reservoir and the owners have not agreed to pool their interests, and where at least one of the owners of the right to drill has drilled or has proposed to drill a well on the existing or proposed proration unit to the common reservoir, the commission, on the application of an owner specified in Section 102.012 of this code and for the purpose of avoiding the drilling of unnecessary wells, protecting correlative rights, or preventing waste, shall establish a unit and pool all of the interests in the unit within an area containing the approximate acreage of the proration unit, which unit shall in no event exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance.

[Acts 1977, 65th Leg., p. 2571, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.012. Owners Authorized to Apply for Pooling

The following interested owners may apply to the commission for the pooling of mineral interests:

- (1) the owner of any interest in oil and gas in an existing proration unit or with respect to a proposed unit;
- (2) the owner of any working interest; or
- (3) any owner of an unleased tract other than a royalty owner.

[Acts 1977, 65th Leg., p. 2571, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.013. Required Voluntary Pooling Offer

(a) The applicant shall set forth in detail the nature of voluntary pooling offers made to the owners of the other interests in the proposed unit.

(b) The commission shall dismiss the application if it finds that a fair and reasonable offer to pool voluntarily has not been made by the applicant.

(c) An offer by an owner of a royalty or any other interest in oil or gas within an existing proration unit to share on the same yardstick basis as the other owners within the existing proration unit are then sharing shall be considered a fair and reasonable offer.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.014. Productive Acreage Equal to Standard Proration Unit

(a) The commission shall not require the owner of a mineral interest, the productive acreage of which is equal to or in excess of the standard proration unit for the reservoir, to pool his interest with others unless requested by the holder of an adjoining mineral interest, the productive acreage of which is smaller than such pattern, who has not been provided a reasonable opportunity to pool voluntarily.

(b) If the conditions specified in Subsection (a) of this section exist, the commission shall pool the smaller tract with adjacent acreage on a fair and reasonable basis and may authorize a larger allowable for the unit if it exceeds the size of the standard proration unit for the reservoir.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.015. Prohibited Provisions in Operating Agreement

A pooling agreement, offer to pool, or pooling order is not considered fair and reasonable if it provides for an operating agreement containing any of the following provisions:

- (1) preferential right of the operator to purchase mineral interests in the unit;
- (2) a call on or option to purchase production from the unit;
- (3) operating charges that include any part of district or central office expense other than reasonable overhead charges; or
- (4) prohibition against nonoperators questioning the operation of the unit.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.016. Notice of Hearing

On the filing of an application for pooling of interests into a unit under the provisions of this

chapter, at least 30 days notice before hearing on the application shall be given to all interested parties, including notice by publication if there are unknown owners or owners whose whereabouts are unknown. The notice shall be given in the manner and form prescribed by the commission.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.017. Pooling Order

(a) After notice and hearing, all orders effecting the pooling shall be made on terms and conditions that are fair and reasonable and will afford the owner or owners of each tract or interest in the unit the opportunity to produce or receive his fair share.

(b) Each order shall:

- (1) describe the land included in the unit, identifying the reservoir to which it applies;
- (2) designate the location of the well; and
- (3) appoint an operator for the unit.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.018. Acreage Subject to Pooling

The commission shall pool only the acreage which at the time of its order reasonably appears to lie within the productive limits of the reservoir.

[Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 102.019 to 102.050 reserved for expansion]

SUBCHAPTER C. RIGHTS IN A POOLED UNIT

§ 102.051. Ownership of Production

(a) For the purpose of determining the portions of production owned by the persons owning interests in the pooled unit, the production shall be allocated to the respective tracts within the unit in the proportion that the number of surface acres included within each tract bears to the number of surface acres included in the entire unit.

(b) Notwithstanding the provisions in Subsection (a) of this section, if the commission finds that allocation on a surface-acreage basis does not allocate to each tract its fair share, the commission shall allocate the production so that each tract will receive its fair share, which for any nonconsenting owner shall be no less than he would receive under a surface-acreage allocation.

[Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.052. Drilling and Completion Costs

(a) As to an owner who elects not to pay his proportionate share of the drilling and completion

costs in advance, the commission shall make provision in the pooling order for reimbursement solely out of production, to the parties advancing the costs, of all actual and reasonable drilling, completion, and operating costs plus a charge for risk not to exceed 100 percent of the drilling and completion costs.

(b) If there is a dispute relative to the costs, the commission shall determine the proper costs and their allocation among working interest owners after due notice to interested parties and a hearing on the costs.

[Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.053. Effect of Operations

(a) The operations on and production from any portion of a unit for which a pooling order has been entered shall be considered for all purposes the conduct of the operations on and production from each separately owned tract in the pooled unit. If a gas well on a pooled unit is shut-in, it shall be considered that the shut-in gas well is on each separately owned tract in the pooled unit.

(b) If only part of a tract is included in the unit, operations on, production from, or a shut-in gas well on the unit shall maintain an oil and gas lease on the tract as to the part excluded from the unit only if the lease would be maintained had the unit been created voluntarily under the provisions of the lease.

[Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 102.054 to 102.080 reserved for expansion]

SUBCHAPTER D. DISSOLUTION OF UNIT

§ 102.081. Dissolved With Consent of Owners

A unit established by order of the commission under this chapter may not be modified or dissolved subsequently without the consent of all mineral owners affected, except as necessary to permit its enlargement as provided in Subchapter B of this chapter.

[Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.082. Automatic Dissolution

A unit is automatically dissolved:

- (1) one year after its effective date if no production or drilling operations have been had on the unit;
- (2) six months after the completion of a dry hole on the unit; or

(3) six months after cessation of production from the unit.

[Acts 1977, 65th Leg., p. 2574, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.083. Termination of Pooled Lease

On termination of a lease pooled by order of the commission under authority granted by this chapter, interests covered by the lease are considered pooled as unleased mineral interests.

[Acts 1977, 65th Leg., p. 2574, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 102.084 to 102.110 reserved for expansion]

SUBCHAPTER E. JUDICIAL REVIEW

§ 102.111. Right to Appeal

A person affected by an order of the commission adopted under the authority of this chapter is entitled to judicial review of that order in a manner other than by trial de novo.

[Acts 1977, 65th Leg., p. 2574, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.112. Venue

Appeal shall be to the district court of the county in which the land or any part of the land covered by the order is located and not elsewhere, notwithstanding the provisions of Sections 85.241 through 85.243 of this code.

[Acts 1977, 65th Leg., p. 2574, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 103. COOPERATIVE FACILITIES FOR CONSERVATION AND UTILIZATION OF GAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

- 103.001. Definition.
- 103.002. Rights Existing on May 12, 1953.
- 103.003. Conflict With Antitrust Laws.

SUBCHAPTER B. FACILITIES FOR CONSERVATION AND UTILIZATION OF GAS

- 103.041. Authorized Cooperative Facilities for Separately Owned Property.
- 103.042. Commission Approval.
- 103.043. Cooperative Refining.
- 103.044. Cooperative Marketing.
- 103.045. Effect of Approval on Operations in Other Fields.
- 103.046. Jointly Owned Property.

SUBCHAPTER A. GENERAL PROVISIONS

§ 103.001. Definition

In this chapter, "commission" means the Railroad Commission of Texas.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 103.002. Rights Existing on May 12, 1953

None of the provisions in this chapter restrict any of the rights that persons had on May 12, 1953, to make and enter into contracts for the construction and operation of cooperative facilities as provided in this chapter.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 103.003. Conflict With Antitrust Laws

(a) Agreements and operations under agreements that are in accordance with the provisions in this chapter, being necessary to prevent waste and conserve the natural resources of this state, shall not be construed to be in violation of the provisions of Chapter 15, Business & Commerce Code, as amended.

(b) If a court finds a conflict between the provisions in this chapter and Chapter 15, Business & Commerce Code, as amended, the provisions in this chapter are intended as a reasonable exception necessary for the public interest stated in Subsection (a) of this section.

(c) If a court finds that a conflict exists between the provisions in this chapter and the laws cited in Subsections (a) and (b) of this section and finds that the provisions in this chapter are not a reasonable exception, it is the intent of the legislature that the provisions in this chapter, or any conflicting portion of them, shall be declared invalid rather than declaring the cited laws, or any portion of them, invalid.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 103.004 to 103.040 reserved for expansion]

SUBCHAPTER B. FACILITIES FOR CONSERVATION AND UTILIZATION OF GAS

§ 103.041. Authorized Cooperative Facilities for Separately Owned Property

The commission may approve agreements by persons owning or controlling leases or other interests in separate property in oil fields, gas fields, or oil and gas fields for the construction and operation of cooperative facilities necessary for the conservation and utilization of gas, including facilities for ex-

tracting and separating hydrocarbons from gas or casinghead gas.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 103.042. **Commission Approval**

Agreements for the construction and operation of cooperative facilities shall be approved by the commission only after application, notice, and hearing, and a finding by the commission that the cooperative facilities are in the interest of conservation and that secondary recovery operations are not feasible or necessary.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 103.043. **Cooperative Refining**

(a) No agreement for the construction or operation of cooperative facilities may provide directly or indirectly for the cooperative refining of oil, distillate, condensate, or gas, or any by-product of oil, distillate, condensate, or gas.

(b) The extraction of liquid hydrocarbons from gas and the separation of liquid hydrocarbons into butanes, propanes, ethanes, distillate, condensate, and natural gasoline without any additional processing of any of them is not considered to be refining.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 103.044. **Cooperative Marketing**

No agreement for the construction or operation of cooperative facilities may provide for the cooperative marketing of oil, condensate, distillate, or gas, or any by-product of oil, condensate, distillate, or gas.

[Acts 1977, 65th Leg., p. 2576, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 103.045. **Effect of Approval on Operations in Other Fields**

The approval of an agreement authorized by this chapter is not of itself a finding that similar operations in other fields are wasteful or not in the interest of conservation.

[Acts 1977, 65th Leg., p. 2576, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 103.046. **Jointly Owned Property**

None of the provisions in this chapter require the approval of the commission of voluntary agreements for the joint development and operation of jointly owned property.

[Acts 1977, 65th Leg., p. 2576, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBTITLE D. REGULATION OF SPECIFIC BUSINESSES AND OCCUPATIONS

CHAPTER 111. COMMON CARRIERS, PUBLIC UTILITIES, AND COMMON PURCHASERS

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- 111.001. Definitions.
 - 111.002. Common Carriers Under Chapter.
 - 111.003. Applicability of Chapter.
 - 111.004. General Restriction on Transportation of Oil.

SUBCHAPTER B. COMMON CARRIERS

- 111.011. Regulation in Public Interest.
- 111.012. General Jurisdiction of Commission.
- 111.013. Control of Pipelines.
- 111.014. Publication of Tariffs.
- 111.015. Transportation Without Discrimination.
- 111.016. Discrimination Between Shippers.
- 111.017. Equal Compensation for Like Service.
- 111.018. Effect of Commission Order.
- 111.019. Right of Eminent Domain.
- 111.0191. Costs of Relocation of Property.
- 111.0192. Limitations on the Powers of Eminent Domain in Certain Situations.
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- 111.020. Pipeline on Public Stream or Highway.
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- 111.022. Right to Use Street or Alley in City or Town.
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- 111.052. Discrimination by Public Utility.
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- 111.081. Definition of Common Purchaser.
- 111.082. Purpose for Including Certain Entities Under Regulation as Common Purchasers.
- 111.083. Duty of Certain Common Purchasers.
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THE COMMISSION

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SUBCHAPTER I. COMMON CARRIER
COAL PIPELINES

- 111.301. Certificate Required.
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- 111.303. Certification Procedure.
- 111.304. Transportation Contract.
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SUBCHAPTER A. GENERAL PROVISIONS

§ 111.001. Definitions

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Public utility" means a person, association of persons, or corporation that owns, operates, or manages crude petroleum storage tanks or stor-

age facilities for the public for hire, either in connection with a pipeline, pipelines, or otherwise.

[Acts 1977, 65th Leg., p. 2578, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.002. Common Carriers Under Chapter

A person is a common carrier subject to the provisions of this chapter if it:

(1) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire, or engages in the business of transporting crude petroleum by pipeline;

(2) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire and the pipeline is constructed or maintained on, over, or under a public road or highway, or is an entity in favor of whom the right of eminent domain exists;

(3) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire which is or may be constructed, operated, or maintained across, on, along, over, or under the right-of-way of a railroad, corporation, or other common carrier required by law to transport crude petroleum as a common carrier;

(4) under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind, owns, operates, manages, or participates in ownership, operation, or management of a pipeline or part of a pipeline in the State of Texas for the transportation of crude petroleum, bought of others, from an oil field or place of production within this state to any distributing, refining, or marketing center or reshipping point within this state;

(5) owns, operates, or manages, wholly or partially, pipelines for the transportation for hire of coal in whatever form or of any mixture of substances including coal in whatever form; or

(6) owns, operates, or manages, wholly or partially, pipelines for the transportation of carbon dioxide in whatever form to or for the public for hire, but only if such person files with the commission a written acceptance of the provisions of this chapter expressly agreeing that, in consideration of the rights acquired, it becomes a common carrier subject to the duties and obligations conferred or imposed by this chapter.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2692, ch. 871, art. II, § 2, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 199, ch. 93, § 1, eff. Aug. 31, 1981.]

§ 111.003. Applicability of Chapter

(a) The provisions of this chapter do not apply to pipelines that are limited in their use to the wells,

stations, plants, and refineries of the owner and that are not a part of the pipeline transportation system of a common carrier as defined in Section 111.002 of this code.

(b) The provisions of this chapter do not apply to any property of a common carrier, as defined in Section 111.002 of this code, that is not a part of or necessarily incident to its pipeline transportation system.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.004. General Restriction on Transportation of Oil

No person, including a common carrier, may transport crude oil or petroleum in this state unless the crude oil or petroleum has been produced or purchased or both in accordance with the laws of this state or a rule of the commission made under those laws, or both.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.005 to 111.010 reserved for expansion]

SUBCHAPTER B. COMMON CARRIERS

§ 111.011. Regulation in Public Interest

The operation of common carriers covered by this chapter is a business in which the public is interested and is subject to regulation by law.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.012. General Jurisdiction of Commission

Particular powers granted to the commission by the provisions of this chapter do not limit the general powers conferred by other laws.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.013. Control of Pipelines

A pipeline subject to the provisions of this chapter not exempt under Section 111.003 of this code, which is used in connection with the business of purchasing or purchasing and selling crude petroleum, or in the business of transporting coal or carbon dioxide in whatever form by pipeline for hire in Texas, shall be operated as a common carrier and shall be subject to the jurisdiction of the commission.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2692, ch. 871, art. II, § 2, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 199, ch. 93, § 1, eff. Aug. 31, 1981.]

§ 111.014. Publication of Tariffs

Common carriers shall make and publish their tariffs under rules prescribed by the commission.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.015. Transportation Without Discrimination

Subject to the law and the rules prescribed by the commission, a common carrier shall receive and transport crude petroleum delivered to it for transportation and perform its other related duties without discrimination.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.016. Discrimination Between Shippers

(a) A common carrier in its operations as a common carrier shall not discriminate between or against shippers with regard to facilities furnished, services rendered, or rates charged under the same or similar circumstances in the transportation of crude petroleum.

(b) A common carrier shall not discriminate in the transportation of crude petroleum produced or purchased by itself directly or indirectly.

(c) In this connection, a pipeline is a shipper of the crude petroleum produced or purchased by itself directly or indirectly and handled through its facilities.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.017. Equal Compensation for Like Service

(a) No common carrier in its operations as a common carrier may charge, demand, collect, or receive either directly or indirectly from anyone a greater or lesser compensation for a service rendered than from another for a like and contemporaneous service.

(b) The provisions of Subsection (a) of this section do not limit the right of the commission to prescribe rules and rates from or to some places that are different from rules or rates for transportation from or to other places.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.018. Effect of Commission Order

A common carrier is not guilty of discrimination when obeying an order of the commission.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.019. Right of Eminent Domain

(a) Common carriers have the right and power of eminent domain.

(b) In the exercise of the power of eminent domain granted under the provisions of Subsection (a) of this section, a common carrier may enter on and condemn the land, rights-of-way, easements, and property of any person or corporation necessary for the construction, maintenance, or operation of the common carrier pipeline.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.0191. Costs of Relocation of Property

In the event a common carrier pipeline in the exercise of the power of eminent domain or police power or any other power granted under this chapter makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of any railroad, electric transmission, telegraph or telephone lines, properties and facilities, or pipeline, all such relocation, raising, lowering, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of such common carrier pipeline. The term "sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of the facilities, after deducting therefrom the net salvage value derived from the old facility.

[Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, § 4, eff. Sept. 1, 1977.]

§ 111.0192. Limitations on the Powers of Eminent Domain in Certain Situations

(a) The right of eminent domain granted under this chapter to any pipelines transporting coal in whatever form shall not include and cannot be used to condemn water or water rights for use in the transportation of coal by pipeline, and no Texas water from any source shall be used in connection with the transportation, maintenance, or operation of a coal slurry pipeline (except water used for drinking, toilet, bath, or other personal uses at pumping stations or offices) within the State of Texas unless the Texas Water Commission shall determine, after public hearing, that the use will not be detrimental to the water supply of the area from which the water is sought to be extracted.

(b) The right of eminent domain granted under this chapter to any pipeline transporting coal in whatever form shall not include the power to take land or any interest in land, by exercise of the power of eminent domain, for the purpose of drilling for, mining, or producing any oil, gas, geothermal, geothermal/geopressured, lignite, coal, sulphur, uranium, plutonium, or other mineral, but this provision does not impair the right of any such entity to acquire title to real property for pipelines, including

cooling ponds and related surface installations and equipment.

[Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, § 6, eff. Sept. 1, 1977.]

§ 111.0193. Restoration of Property

Every condemnation award granted under this chapter shall require that the condemnor restore the property which is the subject of the award to its former condition as near as reasonably practicable.

[Acts 1977, 65th Leg., p. 2695, ch. 871, art. II, § 7, eff. Sept. 1, 1977.]

§ 111.020. Pipeline on Public Stream or Highway

(a) Subject to the provisions of Subsection (b) of this section, all common carriers are entitled to lay, maintain, and operate along, across, or under a public stream or highway in this state pipelines, together with telegraph and telephone lines incidental to and designed for use only in connection with the operation of the pipelines.

(b) The right to run a pipeline or telegraph or telephone line along, across, or over a public road or highway may be exercised only on condition that:

- (1) it does not interfere with traffic on the road or highway;
- (2) the road or highway is promptly restored to its former condition of usefulness;

(3) the restoration of the road or highway is subject also to the supervision of the commissioners court or other proper local authority; and

(4) no pipes or pipelines are laid parallel with and on a public highway closer than 15 feet from the improved section of the highway except with the approval and under the direction of the commissioners court of the county in which the public highway is located.

(c) The common carrier shall compensate the county or road district, respectively, for any damage done to the public road in the exercise of the privileges conferred.

(d) A person may acquire the right conferred in this section by filing with the commission a written acceptance of the provisions of this chapter expressly agreeing that, in consideration of the rights acquired, it becomes a common carrier subject to the duties and obligations conferred or imposed by this chapter.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.021. Pipeline Under Railroad, Street Railroad, or Canal

A common carrier is entitled to lay its pipe or pipeline under any railroad, railroad right-of-way, street railroad, or canal in this state.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.022. Right to Use Street or Alley in City or Town

The provisions of this chapter do not grant a pipeline company the right to use a public street or alley in an incorporated or unincorporated city or town except with express permission of the governing body of the city or town or the right to lay its pipes or pipelines along and under a street or alley in an incorporated city or town except with the consent and under the direction of the governing body of the city or town.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.023. Exchange of Facilities

(a) A common carrier shall exchange crude petroleum tonnage with each like common carrier.

(b) When a necessity exists, the commission may require connections and facilities for the interchange of crude petroleum tonnage to be made at every locality reached by both pipelines, subject to the rules and rates made by the commission.

(c) A common carrier pipeline under like rules shall be required to install and maintain facilities for the receipt and delivery of crude petroleum of patrons at all points on the pipeline.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.024. Limit on Amount of Oil Carried

No common carrier may be required at any time to receive for shipment from any person more than 3,000 barrels of petroleum in any one day.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.025. Abandoning Connections

(a) No common carrier may abandon any of its connections or lines except under authority of a permit granted by the commission or with written consent of the owner or duly authorized agent of the wells to which connections are made.

(b) Before granting a permit to abandon any connection, the commission shall issue proper notice and hold a hearing as provided by law.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.026 to 111.050 reserved for expansion]

SUBCHAPTER C. PUBLIC UTILITIES

§ 111.051. Applicability of Statute to Public Utilities

A public utility is subject to the provisions of this subchapter and other provisions of this chapter relating to public utilities.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.052. Discrimination by Public Utility

No public utility in its operations as a public utility may discriminate between or against its patrons in regard to facilities furnished or services rendered, or rates charged under the same or similar circumstances, in the storage of crude oil.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.053. Bond of Public Utility

(a) Before engaging in business as a public utility, a person, association, or corporation that is to engage in business as a public utility shall file a bond in an amount not to exceed \$25,000 that is properly executed and made payable to the State of Texas with the amount of the bond and the sureties on the bond subject to the approval of the commission.

(b) The bond or securities in lieu of the bond as provided in Article 836, Revised Civil Statutes of Texas, 1925, as amended, shall be approved by the commission before it is filed.

(c) After proper notice and hearing as provided by law, the amount of the bond may be changed from time to time by order of the commission, according to the volume of business done or to be done by the public utility.

(d) The bond shall be conditioned that the public utility will observe the applicable provisions of this subchapter and chapter and the rules of the commission insofar as its business is regulated and controlled by the commission and that the public utility will exercise ordinary care in the storage, preservation, handling, and delivery of petroleum products entrusted to it and shall guarantee the classification, measurements, and grades made by it under its authority and in conformity herewith.

(e) The bond shall be for the benefit of the patrons of the public utility and their assignees as though they were named obligees in the bond and they shall severally have the right of suit on the bond.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.054. Lien for Storage Charges

A public utility shall have a lien on the commodity in its possession to secure it in the payment of all proper storage charges against the commodity or the transportation charges accrued to or paid or advanced by it or both and the lien is superior to all other liens on the commodity except a lien for taxes.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.055 to 111.080 reserved for expansion]

SUBCHAPTER D. COMMON PURCHASERS

§ 111.081. Definition of Common Purchaser

(a) In this subchapter, "common purchaser" means:

(1) every person that purchases crude oil or petroleum produced within the limits of this state and that is affiliated through stock ownership, common control, contract, or in any other manner with a common carrier by pipeline or is itself a common carrier;

(2) every person, gas pipeline company, or gas purchaser that claims or exercises the right to carry or transport natural gas by pipeline or pipelines for hire, compensation, or otherwise within the limits of this state or that engages in the business of purchasing or taking natural gas, residue gas, or casinghead gas thereof;

(3) every person that operates a crude oil gathering system, whether by pipeline or truck, that may purchase crude oil or petroleum in this state, whether or not it is a common carrier or affiliated with a common carrier; and

(4) the business of purchasing or of purchasing and selling crude petroleum by the use of a gathering system for crude petroleum, whether by pipeline or by truck.

(b) The persons covered by Subdivision (3), Subsection (a) of this section do not include persons transporting only crude oil from property in which they own an operating interest.

(c) The operation of a crude oil gathering system by a person, association of persons, or corporation transporting only crude oil from property in which it owns an operating interest shall not be considered to be included in Subdivision (4) of Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.082. Purpose for Including Certain Entities Under Regulation as Common Purchasers

Persons, gas pipeline companies, and gas purchasers claiming or exercising the right to carry or transport natural gas by pipeline or pipelines for hire, compensation, or otherwise within the limits of this state are regulated as common purchasers under this subchapter for the purpose of further conserving the natural gas resources of this state.

[Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.083. Duty of Certain Common Purchasers

A common purchaser as defined in Subdivision (2), Subsection (a), Section 111.081 of this code shall

purchase or take the natural gas purchased or taken by it as a common purchaser under rules prescribed by the commission in the manner, under the inhibitions against discriminations, and subject to the provisions applicable under this chapter to common purchasers of oil.

[Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.084. Operation of Gathering Systems for Crude Petroleum

The operation of gathering systems for crude petroleum by pipeline or by truck in connection with the purchase or purchase and sale of crude petroleum is a business in the mode of the conduct of which the public is interested, and as such is subject to regulation by law. Therefore, it is provided that the business of purchasing or of purchasing and selling crude petroleum by the use of a gathering system for crude petroleum, whether by pipeline or by truck, shall not be conducted unless the person operating the gathering system being used in this manner in connection with this business is a common purchaser under this law and subject to the jurisdiction conferred on the commission over common purchasers.

[Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.085. Applicability of Rate Provisions to Certain Common Purchasers

Common purchasers as defined in Subdivision (3), Subsection (a), Section 111.081 of this code are subject to the same regulation concerning rates and charges for gathering, transporting, loading, and delivering crude petroleum as set out in Subchapter F of this chapter.

[Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.086. Discrimination Between Persons and Fields

(a) A common purchaser shall purchase oil offered to it for purchase without discrimination in favor of one producer or person against another producer or person in the same field and without unjust or unreasonable discrimination between fields in this state.

(b) A question of justice or reasonableness under this section shall be determined by the commission taking into consideration the production and age of wells in respective fields and all other proper factors.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.087. Conditions in Taking Production

(a) No common purchaser may discriminate between or against crude oil or petroleum of a similar

kind or quality in favor of its own production, or production in which the common carrier may be directly or indirectly interested in whole or part.

(b) For the purpose of prorating the purchase of crude oil or petroleum to be marketed, the production shall be taken in like manner as that of any other person or producer and shall be taken in the ratable proportion that the production bears to the total production offered for market in the field.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.088. Commission Relief

After proper notice and hearing as provided by law, the commission may relieve any common purchaser from the duty of purchasing petroleum of inferior quality or grade.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.089. Discrimination as to Royalty Oil

(a) In making purchases of royalty oil, a common purchaser shall comply with the provisions of this subchapter, Subchapters C, F, and G of this chapter, and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code, and shall not discriminate between royalty owners or landowners or both in making those purchases.

(b) No common purchaser may unreasonably delay payments to a royalty owner or landowner or both in purchases of said oil or gas.

(c) In addition to other penalties, the royalty owner or landowner or both have a cause of action for violation of this section against the common purchaser for damages and may file suit for damages in any court of competent jurisdiction in the county in which the royalty lies.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.090. Compliance by Common Purchasers

The commission shall enforce compliance with this subchapter, Subchapters C, F, and G of this chapter, and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code and after notice and hearing, may make rules and orders defining the distance that extensions or gathering lines shall be made to all oil or gas wells and other rules or orders that may be necessary to carry out those provisions cited in this section and to prevent discrimination.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.091. Prevention of Discrimination

(a) The commission shall make inquiry in each field concerning the connection of various producers, and if discrimination is found to be practiced by

a common purchaser, the commission shall issue an order to the common purchaser to make any reasonable extensions of its lines, reasonable connections, and ratable purchases that will prevent the discrimination.

(b) The commission may issue a show cause order to any common purchaser requesting it to appear and show cause why it should not purchase the allowable production of any producer discriminated against under Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.092. Injunction to Prevent Discrimination

On information that discrimination is practiced in its purchases by a common purchaser, the commission shall request the attorney general to bring a mandatory injunction suit against the common purchaser to compel the reasonable extensions that are necessary to prevent discrimination.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.093. Forfeiture of Charter of Domestic Corporation

(a) If a domestic corporation that is a common purchaser violates any provision of this subchapter, Subchapter C, F, or G of this chapter, or Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code or any valid rule promulgated by the commission under those provisions, the attorney general may bring suit in a district court in Travis County against the corporation to forfeit the charter of the corporation and enjoin and forever prohibit the corporation from doing business in this state.

(b) If the corporation is found guilty by the court before whom the action is brought under this section, the charter of the corporation may be forfeited and the injunction may be granted, provided that the forfeiture and injunction are in addition to all other penalties.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.094. Forfeiture of Charter of Foreign Corporation

(a) If a foreign corporation that is a common purchaser violates a provision of this subchapter, Subchapter C, F, or G of this chapter, or Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code or a valid rule promulgated by the commission under these provisions, the attorney general may bring suit in a district court of Travis County to cancel the permit of the corporation and enjoin and forever prohibit the corporation from doing business in this state.

(b) If the corporation is found guilty by the court before whom the action is brought, the permit may be cancelled and the injunction may be granted, provided the cancellation and injunction are in addition to all other penalties.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.095. Action for Damages

(a) If a person is discriminated against by a common purchaser in favor of the production of the common purchaser, the person may bring an action for damages against the common purchaser.

(b) An action for damages under this section may be brought in any court of competent jurisdiction in the county in which the damage occurred.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.096. Duties and Responsibilities of Common Purchasers, Purchasers, Gatherers, and Transporters

Notwithstanding the provisions of any statute or law including the provisions of this subchapter, Subchapters C, F, and G of this chapter, and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code, none of the provisions of Sections 111.081, 111.084, 111.085, and 111.091 of this code shall increase or decrease the duties or responsibilities of any common purchaser, purchaser, gatherer, or transporter of natural gas, residue gas, or casinghead gas.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.097. Antitrust Laws Unaffected

(a) No provision of this subchapter may be construed as modifying, limiting, changing, repealing, or affecting in any manner any part of the present law of this state defining and regulating trusts, monopolies, and conspiracies in restraint of trade.

(b) No provision of this subchapter may be construed as authorizing any agreement or combination or both of capital, skill, and acts or any of these and any combination or consolidation now prohibited by the antitrust laws of this state or laws of this state prohibiting trusts, monopolies, and conspiracies in restraint of trade or both.

(c) No provision of this subchapter is intended or may be construed as authorizing any agreement, act, combination, consolidation, or other arrangement that is now prohibited under the antitrust laws of this state or the laws prohibiting and defining trusts, monopolies, and conspiracies in restraint of trade or both.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.098 to 111.130 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES OF THE COMMISSION

§ 111.131. Commission Rules for Common Carriers

The commission shall establish and promulgate rules for gathering, transporting, loading, and delivering crude petroleum by common carriers in this state and for use of storage facilities necessarily incident to this transportation and shall prescribe and enforce rules, in the manner provided by law, for the government and control of common carriers with respect to their pipelines and receiving, transferring, and loading facilities.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.132. Commission Rules for Public Utilities

(a) The commission shall establish and enforce rules governing:

(1) the character of facilities to be furnished by public utilities;

(2) the forms of receipts to be issued by public utilities; and

(3) the rates, charges, and rules for the storage of crude petroleum by public utilities in respect to their storage facilities and for the inspection, grading, measurement, deductions for waste or deterioration, and the delivery of their products.

(b) The commission also shall exercise its authority to establish and enforce rules governing public utilities on petition of an interested person.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.133. Enforcement by Commission

The commission may make rules for the enforcement of the provisions of Subchapters C, D, and F of this chapter and Sections 111.004, 111.025, 111.131 through 111.132, 111.136, 111.137, and 111.140 of this code.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.134. Notice and Hearing

No order of the commission establishing, prescribing, or modifying rules or rates may be made except after a hearing and after not less than 10 days nor more than 30 days notice to the person, firm, corporation, partnership, joint stock association, or association owning or controlling and operating the pipeline or pipelines affected.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.135. **Validity of Commission Orders**

Until set aside or vacated by an order or decree of a court of competent jurisdiction, all orders of the commission relating to any matter within its jurisdiction shall be accepted as prima facie evidence of their validity.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.136. **Review of Orders**

A person affected by an order of the commission adopted under the authority of this chapter is entitled to judicial review of that order in a manner other than by trial de novo.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.137. **Enlargement and Extension of Facilities**

On its own initiative without complaint, and after proper notice and hearing, as provided by law the commission may authorize or require by order any common carrier owning or operating pipelines in this state or owning, operating, or managing crude petroleum storage tanks or facilities for the public for hire, to extend or enlarge those pipelines or storage facilities if the extension or enlargement is found to be reasonable and required in the public interest and the expense involved will not impair the ability of the common carrier or public utility to perform its duty to the public.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.138. **Books and Records**

The commission may investigate the books and records kept by any common carrier in connection with its business.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.139. **Reports**

(a) The commission shall require each common carrier to make reports including duly verified monthly reports of:

- (1) the total quantities of crude petroleum owned by the common carrier in the state;
- (2) the total quantities of crude petroleum held by the common carrier in storage for others in the state; and
- (3) the common carrier's unfilled storage capacity.

(b) The commission shall give no publicity to the stock of crude petroleum on hand of any particular common carrier, but the commission may, in its discretion, make public the aggregate amounts held

by all common carriers making reports and their aggregate storage capacity.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.140. **Filing Monthly Statements**

(a) On or before the 20th day of each calendar month, every common carrier in this state and every public utility shall file with the commission and shall post in a conspicuous place accessible to the general public in its principal office and each of its division offices in this state a statement, duly verified, containing information concerning its business during the preceding calendar month as follows:

- (1) the amount of crude or refined petroleum in the actual and immediate custody of the common carrier or public utility at the beginning and close of the month and the location or holding point of this petroleum, including the location and designation of each plant or place of deposit and the name of its owner;
- (2) the amount of crude or refined petroleum received by the common carrier or public utility during the month;
- (3) the amount of crude or refined petroleum that was delivered by the common carrier or public utility during the month;
- (4) the amount of crude or refined petroleum held by the common carrier or public utility for itself or parent or affiliated organizations; and
- (5) the available empty storage owned or controlled by the common carrier or public utility and its location.

(b) The information to be provided under Subsection (a) of this section shall be set out separately as to crude petroleum and each refined product of crude petroleum in each statement.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.141. **Grades of Oil**

(a) The commission shall make rules for:

- (1) the ascertainment of the amount of water and other foreign matter in oil tendered for transportation;
- (2) deduction for water and other foreign matter; and
- (3) the amount of deduction to be made for temperature, leakage, and evaporation.

(b) No common carrier may be required to receive or transport any crude petroleum except that which is marketable under rules prescribed by the commission.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.142. Equitable Apportionment of Excessive Amount of Crude Petroleum

If more crude petroleum is offered for transportation by a common carrier than can be transported immediately, it shall be apportioned equitably, and the commission may make and enforce general or specific rules for equitable apportionment.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.143 to 111.180 reserved for expansion]

SUBCHAPTER F. RATES

§ 111.181. Establishing and Promulgating Rates

The commission shall establish and promulgate rates of charges for gathering, transporting, loading, and delivering crude petroleum by common carriers in this state and for use of storage facilities necessarily incident to this transportation.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.182. Items Included in Rates

The rates established and promulgated by the commission shall include both single- and joint-line transportation, deduction for evaporation and shrinkage, demurrage, storage, and overage charges and all other similar items.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.183. Basis for Rate

The basis of the rates shall be an amount that will provide a fair return on the aggregate value of the property of a common carrier used and useful in the services performed after providing reasonable allowance for depreciation and other factors and for reasonable operating expenses under honest, efficient, and economical management.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.184. Discretion of Commission

The commission has reasonable latitude in establishing and adjusting competitive rates.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.185. Temporary Rates

If a common carrier makes application or files a tariff to establish a new rate on either a new or old line, a temporary rate may be placed into effect immediately on filing the tariff with the commission.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.186. Reparation and Reimbursement

If rates have been filed, each shipper who pays these filed rates is entitled to reparation or reimbursement of all excess rates or transportation charges paid over and above the rate that is finally determined on the shipments.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.187. Reimbursement of Excess Charges

If a rate is filed by a common carrier and complaint against the rate or petition to reduce the rate is filed by a shipper, and the complaint is sustained in whole or part, all shippers who have paid the rates filed by the common carrier are entitled to reparation or reimbursement of all excess transportation charges paid over and above the proper rate as finally determined on all shipments made after the date of the filing of the complaint.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.188. Annual Rate Hearing

The commission shall hold a general hearing once each year for the purpose of adjusting rates to conform to the basis of rates and charges provided in this subchapter.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.189. Hearing and Determination of Rates

If a person at interest files an application for a change in a rate or rates, the commission shall call a hearing and immediately after the hearing shall establish and promulgate a rate or rates in accordance with the basis provided in this subchapter.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.190. Hearings to Adjust Rates

On its own motion or on motion of any interested person, the commission shall hold a hearing to adjust, establish, and promulgate a proper rate or rates if it has reason to believe that any rate or rates do not conform to the basis provided in this subchapter.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.191 to 111.220 reserved for expansion]

SUBCHAPTER G. ENFORCEMENT

§ 111.221. Complaints; Jurisdiction to Hear Complaints

Any person or the attorney general on behalf of the state may institute proceedings before the commission or apply for a hearing before the commis-

sion on any question relating to the enforcement of Subchapters C, D, and F of this chapter and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code, and the commission has jurisdiction to hear and determine these questions after giving proper notice as provided by law.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.222. Application for Receivership

If a rule or order promulgated by the commission under Subchapter C, D, or F of this chapter or Section 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code is found by a court to be valid in whole or part in a suit to which the commission is a party, and if another party to the suit or other proceedings violates the rule, order, or judgment or allows any property owned or controlled by him to be used in violation of the rule, order, or judgment, the commission shall make application to the judge of the trial court setting out the rule, order, or judgment and that the party subsequent to the date of the judgment violated or is violating the rule, order, or judgment and requesting a receiver be appointed as provided in Section 111.223 of this code.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.223. Appointment of Receiver

On application by the commission and after notice and hearing, the judge of the trial court may appoint a receiver of the property involved in violating the rule, order, or judgment and shall set a proper bond for the receiver.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.224. Duties and Responsibilities of Receiver

As soon as the receiver has qualified, he shall take possession of the property and shall perform his duties as receiver of the property under the orders of the court, strictly observing the rule, order, or judgment.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.225. Motion to Dissolve Receivership

A party whose property has been placed in the hands of a receiver may move to dissolve the receivership and discharge the receiver only on showing that the party has not wilfully violated nor allowed property owned or controlled by him to be used in violating the rule, order, or judgment or on other good cause shown.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.226. Bond

(a) Before dissolving the receivership or discharging the receiver, the court, in its discretion, may require the party applying for the dissolution or discharge to give bond with good and sufficient sureties in an amount to be fixed by the court, sufficient reasonably to indemnify all persons who may suffer damage by reason of the violation of the rule or order judged to be valid.

(b) In determining the amount of the bond, the judge shall take into consideration all the facts and circumstances surrounding the parties that he considers necessary to determine the reasonableness of the amount of the bond.

(c) If the bond is made by a bonding or surety company, it shall be made by a company authorized to do business in this state.

(d) The bond shall be made payable to and be approved by the judge of the court and shall be for the use and benefit of and may be sued on by all persons who suffer damage by reason of any further violation by the party giving the bond and who brings suit on the bond.

(e) From time to time on motion, the court may increase or decrease the amount of the bond and may require new or additional sureties as the facts may warrant or justify.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.227. Provisions Applicable to Enforcement

The provisions of Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, apply in the enforcement of Subchapters C, D, and F of this chapter and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.228 to 111.260 reserved for expansion]

SUBCHAPTER H. PENALTIES

§ 111.261. Penalty Recoverable by State

A common carrier under this chapter is subject to a penalty of not less than \$100 nor more than \$1,000 for each offense, recoverable in the name of the state, if the common carrier:

- (1) violates Section 111.013 through 111.024, 111.134, 111.135, 111.138, 111.139, 111.141, or 111.142 of this code or a valid order of the commission; or

(2) fails to perform a duty imposed by Section 111.013 through 111.024, 111.134, 111.135, 111.138, 111.139, 111.141, or 111.142 of this code.

[Acts 1977, 65th Leg., p. 2591, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.262. Penalty Recoverable by Aggrieved Party

A common carrier is subject to a penalty of not less than \$100 nor more than \$1,000 for each offense of unlawful discrimination as defined in Sections 111.015 through 111.017 of this code. The suit shall be brought in the name of and for the use of the aggrieved person, corporation, or association of persons.

[Acts 1977, 65th Leg., p. 2591, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.263. Penalty Recoverable by State and Aggrieved Party

(a) Any person who violates a provision of Subchapter C, D, F, or G of this chapter or Section 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code, a rule promulgated under these subchapters or sections, or an order passed by the commission under these subchapters or sections or one of these rules, on violation, is subject to a penalty of not less than \$100 nor more than \$1,000 for each offense recoverable in the name of the state in a district court in Travis County. Each day a violation continues constitutes a separate offense.

(b) One-half of the penalty may be recovered by and for the use of any person against whom there is an unlawful discrimination as defined in Subchapter D of this chapter, and this suit shall be brought in the name of and for the use of the party or parties aggrieved.

[Acts 1977, 65th Leg., p. 2591, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**SUBCHAPTER I. COMMON CARRIER
COAL PIPELINES**

§ 111.301. Certificate Required

A person that is a common carrier under Subsection (5), Section 111.002 of this code must apply for and be issued a certificate of public convenience and necessity from the commission pursuant to the commission's authority to issue certificates under Section 111.302 of this code if the commission finds after a hearing that the public convenience and necessity will be served by the construction and operation of the pipeline.

[Acts 1977, 65th Leg., p. 2692, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

§ 111.302. Commission Authority to Issue Certificates

(a) The commission is further authorized, empowered, and directed to issue certificates of public convenience and necessity to pipelines transporting coal in whatever form or mixture for hire in Texas if the commission finds that the public convenience and necessity will be served in that existing facilities will not be able to provide the transportation as economically or efficiently as the proposed pipeline.

(b) In exercising its powers and duties under this section, the commission may not issue a permit for or attempt to regulate in any manner the condemnation, appropriation, or acquisition of surface or ground water in Texas.

(c) The commission shall not issue a permit, certificate, or any authority to any applicant whose rates and charges are not regulated by government authority, either state or federal, and that state or federal regulations insure to the public and to the ultimate electric consumer that the contracts, rates, and charges shall be just and reasonable, nondiscriminatory, and offering no preference or advantage to any person, corporation, entity, or group.

(d) The commission shall not issue a permit, certificate, or any authority to any applicant whose pipeline transporting coal in whatever form unless the pipeline transporting coal in whatever form is to be buried at least 36 inches below the surface, except in such instances in which the commission specifically exempts the 36-inch depth requirement and unless the pipeline transporting coal in whatever form conforms to all applicable state or federal regulations concerning the operation, maintenance, and construction of that same pipeline.

(e) The commission shall condition the issuance of a certification upon the requirement that the pipeline company shall take no more than 50 feet in width of right-of-way under the power of eminent domain, except for temporary work areas adjacent to the right-of-way and then not to exceed 100 feet in width for the duration of the construction period only; and provided that any condemnation award granted under this chapter shall take into account the damages to the remainder caused by the exercise of eminent domain for the temporary work areas.

[Acts 1977, 65th Leg., p. 2693, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

§ 111.303. Certification Procedure

(a) The coal pipeline applicant shall publish, in accordance with regulations promulgated by the commission and existing law, a notice that it has filed an application for a certificate of public convenience and necessity under this Act in a newspaper of general circulation in each county in which the project will be located. The notice shall, among

other things, specify to the extent practicable the land which would be subject to the power of eminent domain.

(b) The commission shall then conduct public hearings in areas of the state along the prospective pipeline right-of-way as it shall determine shall be necessary to give property owners an opportunity to be heard. The commission is vested with authority to alter the right-of-way to meet with local objections.

[Acts 1977, 65th Leg., p. 2693, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

§ 111.304. Transportation Contract

No common carrier pipeline transporting coal in whatever form shall contract or otherwise agree to transport coal for a term in excess of three years without prior approval of that contract or agreement by the commission which approval shall be given on determination that the contract or agreement is in the public interest in which case the contract or agreement shall be enforceable.

[Acts 1977, 65th Leg., p. 3693, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

§ 111.305. Other Agencies

(a) The commission shall seek and act on the recommendations of the Texas Air Control Board, the Texas Water Quality Board, the Governor's Energy Advisory Council, or their successors responsible for environmental determinations and shall specify the proper use and disposal of nondischARGEABLE water.

(b) Neither the authority conveyed to the commission by this subchapter to issue certificates and to promulgate rules governing pipelines transporting coal in whatever form nor the powers and duties conveyed on those pipelines by this chapter shall affect, diminish, or otherwise limit the jurisdiction and authority of the Texas Water Commission and the Texas Water Quality Board, or their successors, to regulate by applicable rules the acquisition, use, control, disposition, and discharge of water or water rights in Texas.

[Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

CHAPTER 112. USED OIL FIELD EQUIPMENT DEALERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

- 112.001. Definitions.
- 112.002. Applicability.

SUBCHAPTER B. SALE OF USED EQUIPMENT

- 112.011. Bill of Sale.
- 112.012. Required Information.

SUBCHAPTER C. ENFORCEMENT; PENALTY

Sec.

- 112.031. Injunctive Relief.
- 112.032. Criminal Penalty.
- 112.033. Inspection.

SUBCHAPTER A. GENERAL PROVISIONS

§ 112.001. Definitions

In this chapter:

(1) "Pipeline equipment" means all pipe, fittings, pumps, telephone and telegraph lines, and all other material and equipment used as part of or incident to the construction, maintenance, and operation of a pipeline for the transportation of oil, gas, water, or other liquid or gaseous substance.

(2) "Oil and gas equipment" means equipment and materials that are part of or incident to the exploration, development, maintenance, and operation of oil and gas properties and includes equipment and materials that are part of or incident to the construction, maintenance, and operation of oil and gas wells, oil and gas leases, gasoline plants, and refineries.

(3) "Used materials" means pipeline equipment or oil and gas equipment after the equipment has once been placed in the use for which it first was manufactured and intended.

(4) "Dealer" means every person whose primary business is buying, selling, or otherwise dealing in used materials and who has a fixed, designated place or places of business within the state.

(5) "Broker" means every person whose primary business is buying, selling, or otherwise dealing in used materials as agent for the seller of the used materials, or as agent for the buyer of the used materials, or as agent for both.

(6) "Peddler" means every person who is not a dealer or broker and whose primary business is buying, selling, or otherwise dealing in used materials.

[Acts 1977, 65th Leg., p. 2592, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2339, ch. 573, § 1, eff. Aug. 31, 1981.]

§ 112.002. Applicability

The provisions of this chapter shall not apply if the reasonable market value of the purchase made is less than \$25.

[Acts 1977, 65th Leg., p. 2592, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 112.003 to 112.010 reserved for expansion]

SUBCHAPTER B. SALE OF USED EQUIPMENT

§ 112.011. Bill of Sale

Before purchasing or acquiring by exchange used materials, a dealer, broker, or peddler shall require

that a bill of sale for the used materials be executed by the seller or the person who exchanges the materials. The dealer, broker, or peddler shall keep a copy of each bill of sale at his place of business.

[Acts 1977, 65th Leg., p. 2592, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2339, ch. 573, § 2, eff. Aug. 31, 1981.]

§ 112.012. Required Information

(a) The bill of sale shall include:

(1) the name and address of the dealer, broker, or peddler;

(2) the serial number, if any;

(3) the kind, make, size, weight, length, and quantity of the used materials purchased or acquired by exchange;

(4) the date of the purchase or acquisition by exchange, if different from the date of the bill of sale;

(5) the name and address of the seller or person who exchanged the materials;

(6) the place of location of the property at the time purchased or acquired by exchange;

(7) the license number of each motor vehicle used in transporting a purchased or exchanged item to the dealer's, broker's or peddler's place of business; and

(8) the driver's license number of the seller or person who exchanged the materials.

(b) A dealer, broker, or peddler under this chapter shall keep at his regular place of business all records required to be kept by this chapter for two years after the date of the purchase or acquisition by exchange of the materials.

[Acts 1977, 65th Leg., p. 2592, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2340, ch. 573, § 3, eff. Aug. 31, 1981.]

[Sections 112.013 to 112.030 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT; PENALTY

§ 112.031. Injunctive Relief

In the name and on behalf of the State of Texas, the attorney general or any district attorney or county attorney in this state may enjoin a dealer, peddler, or broker from continuing in business in this state as a dealer, peddler, or broker on violation of any of the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2593, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 112.032. Criminal Penalty

A person, dealer, peddler, or broker who violates any of the provisions of this chapter is guilty of a

misdemeanor and on conviction is subject to a fine of not less than \$500 for each violation.

[Acts 1977, 65th Leg., p. 2593, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2340, ch. 573, § 4, eff. Aug. 31, 1981.]

§ 112.033. Inspection

(a) Any Texas Ranger or other officer commissioned by the Department of Public Safety, any sheriff or deputy sheriff, or any municipal police officer may enter the business premises of a dealer, broker, or peddler under this chapter during normal business hours to inspect the premises and the records of the dealer, broker, or peddler to determine whether the dealer, broker, or peddler is in compliance with this chapter.

(b) A dealer, broker, or peddler under this chapter must allow and shall not interfere with inspections conducted pursuant to this chapter.

(c) Each inspection conducted under this chapter shall be commenced and completed with reasonable promptness and shall be conducted in a reasonable manner.

[Acts 1981, 67th Leg., p. 2340, ch. 573, § 5, eff. Aug. 31, 1981. Amended by Acts 1983, 68th Leg., p. 4526, ch. 741, § 3, eff. Sept. 1, 1983.]

CHAPTER 113. LIQUEFIED PETROLEUM GAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

- 113.001. Title.
- 113.002. Definitions.
- 113.003. Exceptions.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 113.011. Liquefied Petroleum Gas Division.
- 113.012. General Duties.
- 113.013. Director of LPG Division.
- 113.014. Employees.
- 113.015. Funds for Financing LPG Division.

SUBCHAPTER C. RULES AND STANDARDS

- 113.051. Adoption of Rules and Standards.
- 113.0511. Limitations on Rulemaking Authority.
- 113.052. Adoption of National Codes.
- 113.053. Effect on Certain Containers.

SUBCHAPTER D. LICENSING

- 113.081. License Requirement.
- 113.082. Categories of Licensee; Fees.
 - [113.083 reserved for expansion]
- 113.084. Application.
 - [113.085 to 113.086 reserved for expansion]
- 113.087. Examination and Seminar Requirements.
- 113.088. Examination; Seminar Fees.
- 113.089. Special Requirements for Licensing.
 - [113.090 reserved for expansion]
- 113.091. License Denial.
- 113.092. License Issuance.
- 113.093. License Renewal.

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 113.094. Staggered Renewal to Licenses.
 113.095. License by Endorsement.
 [Section 113.096 reserved for expansion]
 113.097. Insurance Requirement.
 113.098. Insurance Conditions.
 113.099. Statements in Lieu of Insurance Certificates.
 [113.100 and 113.101 reserved for expansion]
 113.102. Prior Licenses.

SUBCHAPTER E. MOTOR VEHICLES AND TESTING LABORATORIES

- 113.131. Transport Trucks and Trailers.
 [113.132 reserved for expansion]

- 113.133. Motor Carrier Laws.
 113.134. Department of Public Safety.
 113.135. Testing Laboratories.

SUBCHAPTER F. SUSPENSION AND REVOCATION OF LICENSES AND REGISTRATIONS

- 113.161. Violations of Chapter or Rules; Informal Actions.
 113.162. Hearings.
 113.163. Findings and Judgment.
 113.164. Appeal.

SUBCHAPTER G. FEES AND FUNDS

- 113.201. Deposit and Expenditure of Fees and Funds.

SUBCHAPTER H. ENFORCEMENT

- 113.231. Injunctions.
 113.232. General Penalty.
 113.233. Entry for Inspection.
 113.234. Warning Tag.
 113.235. Supplying or Removing LPG After Warning Tag Attached.
 113.236. Penalty for Unauthorized Removal of Tag.

Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, amended Chapter 113, Liquefied Petroleum Gas Industry, §§ 113.001 to 113.234, as Chapter 113, Liquefied Petroleum Gas, §§ 113.001 to 113.236, effective September 1, 1980.

DISPOSITION TABLE

Showing where provisions of former Chapter 113 (§§ 113.001 to 113.234) are covered in §§ 113.001 to 113.236, effective September 1, 1980. Former §§ 113.085, 113.086, and 113.090 were repealed by § 3 of the 1979 act revising Chapter 113 effective August 27, 1979.

Former Section	New Section
113.001	113.001
113.002	113.002
113.003	113.003
113.011	113.011
113.012	113.012
113.013	113.013
113.014	113.014
113.015	113.015
113.051	113.051

Former Section	New Section
113.052	113.052
113.053	113.053
113.081	113.081
113.082	113.082
113.083	—
113.084	113.084
113.085	Repealed
113.086	Repealed
113.087	113.087
113.088	113.088
113.089	113.089
113.090	Repealed
113.091	113.091
113.092	113.092
113.093	113.093
113.094	—
113.095	—
113.096	—
113.097	113.097, 113.098
113.098	113.233
113.099	113.234
113.131	113.131
113.132	—
113.133	113.133, 113.134
113.161	—
113.162	113.161
113.163	113.162
113.164	113.162
113.165	113.163
113.166	113.164
113.201	—
113.202	113.201
113.203	113.201
113.231	113.231
113.232	113.232
113.233	113.235
113.234	113.236

SUBCHAPTER A. GENERAL PROVISIONS

§ 113.001. Title

This chapter may be cited as the Liquefied Petroleum Gas Code or LPG Code.

[Acts 1977, 65th Leg., p. 2594, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

Acts 1979, 66th Leg., p. 2043, ch. 799, revising this chapter, provided in § 4(b) of the Act:

"Sections 1 and 2 of this Act shall become effective for all purposes on September 1, 1980; provided, from and after enactment, this entire Act shall be effective for planning purposes as necessary to permit development by the railroad commission of rules and procedures for handling original and renewal license and registration applications, examinations, forms, and other requirements, and for collection of license and registration fees as provided in this Act for original licenses and registrations to be issued and for licenses and registrations to be renewed on and after September 1, 1980."

§ 113.002. Definitions

In this chapter:

- (1) "Commission" means the Railroad Commission of Texas.

(2) "Division" means the liquefied petroleum gas division of the commission.

(3) "Employee" means any individual who renders or performs any services or labor for compensation and includes individuals hired on a part-time or temporary basis or a full-time or permanent basis including an owner-employee.

(4) "Liquefied petroleum gas," "LPG," or "LP-gas" means any material that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons: propane, propylene, normal butane, isobutane, and butylenes.

(5) "Container" means any receptacle designed for the transportation or storage of LPG or any receptacle designed for the purpose of receiving injections of LPG for use or consumption by or through an LPG system.

(6) "Appliance" means any apparatus or fixture that uses or consumes LPG furnished or supplied by an LPG system to which it is connected or attached.

(7) "LPG system" means all piping, fittings, valves, and equipment, excluding containers and appliances, that connect one or more containers to one or more appliances that use or consume LPG.

(8) "Transport system" means any and all piping, fittings, valves, and equipment on a transport, excluding the container.

(9) "Transfer system" means all piping, fittings, valves, and equipment utilized in dispensing LPG between containers.

(10) "Transport" means any bobtail or semi-trailer equipped with one or more containers.

(11) "Subframing" means the attachment of supporting structural members to the pads of a container but does not include welding directly to or on the container.

(12) "Representative" means the individual designated to the commission by a license applicant or licensee as the principal person in authority and responsibility actively supervising the conduct of the licensee's LPG activities.

[Acts 1977, 65th Leg., p. 2594, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.003. Exceptions

None of the provisions of this chapter apply to:

- (1) the production, refining, or manufacture of LPG;

- (2) the storage, sale, or transportation of LPG by pipeline or railroad tank car by a pipeline company, producer, refiner, or manufacturer;

- (3) equipment used by a pipeline company, producer, refiner, or manufacturer in a producing, refining, or manufacturing process or in the storage, sale, or transportation by pipeline or railroad tank car;

- (4) any deliveries of LPG to another person at the place of production, refining, or manufacturing; or

- (5) underground storage facilities other than LP-gas containers designed for underground use.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.004 to 113.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 113.011. Liquefied Petroleum Gas Division

There is created and organized a separate and distinct division of the commission known as the liquefied petroleum gas division or the LPG division.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.012. General Duties

The LPG division shall administer and enforce the laws of this state and the rules and standards of the commission relating to liquefied petroleum gas.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.013. Director of LPG Division

The commission shall appoint and employ a director of the LPG division, who shall serve at the pleasure of the commission and who shall devote full time and attention to administering the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.014. Employees

Sufficient employees shall be provided to the LPG division for the enforcement of this chapter.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.015. Funds for Financing LPG Division

The commission shall look only to the revenue derived from the operation of this chapter and appropriated by the legislature for expenses of conducting the liquefied petroleum gas division and administering this chapter.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.016 to 113.050 reserved for expansion]

SUBCHAPTER C. RULES AND STANDARDS

§ 113.051. Adoption of Rules and Standards

Except as provided in Section 113.003 of this code, the commission shall promulgate and adopt rules or standards or both relating to any and all aspects or phases of the LPG industry that will protect or tend to protect the health, welfare, and safety of the general public.

[Acts 1977, 65th Leg., p. 2596, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.0511. Limitations on Rulemaking Authority

(a) The commission may not adopt rules restricting competitive bidding or advertising by a person regulated by the commission except to prohibit false, misleading, or deceptive practices by the person.

(b) The commission may not include in any rules to prohibit false, misleading, or deceptive practices by a person regulated by the commission a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of his voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

[Acts 1983, 68th Leg., p. 1168, ch. 263, § 6, eff. Sept. 1, 1983.]

§ 113.052. Adoption of National Codes

The commission may adopt by reference, in whole or in part, the published codes of the National Board of Fire Underwriters, the National Fire Protection Association, the American Society for Mechanical Engineers, and other nationally recognized societies or any one or more of these codes as standards to be met in the design, construction, fabrication, assembly, installation, use, and maintenance of containers, tanks, appliances, systems, and equipment for the transportation, storage, delivery, use, and consumption of LPG or any one or more of these purposes.

[Acts 1977, 65th Leg., p. 2596, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.053. Effect on Certain Containers

Rules, standards, and codes adopted pursuant to Sections 113.051 through 113.052 of this code do not apply to containers used in accordance with and

subject to the regulations of the United States Department of Transportation or to containers that are owned or used by the United States government.

[Acts 1977, 65th Leg., p. 2596, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.054 to 113.080 reserved for expansion]

SUBCHAPTER D. LICENSING

§ 113.081. License Requirement

(a) Unless otherwise stated in this chapter, no person may engage in any of the following activities unless that person has obtained a license from the commission authorizing that activity:

(1) container activities: the manufacture, assembly, repair, sale, installation, or subframing of containers for use in this state, except that no license is required for the sale of a new container of 96 pounds water capacity or less;

(2) systems activities: the installation, service, and repair of systems for use in this state, including the laying or connecting of pipes and fittings connecting with or to systems or serving a system and appliances to be used with liquefied petroleum gas as a fuel;

(3) appliance activities: the service, installation, and repair of appliances used or to be used in this state in connection with systems using liquefied petroleum gas as a fuel, except that no license shall be required for installation or connection of unvented type appliances to LPG systems by means of LPG appliance connectors; or

(4) product activities: the sale, transportation, dispensation, or storage of liquefied petroleum gas in this state, except that no license shall be required to sell LPG where the vendor never obtains possessory rights to the product sold or where the product is transported or stored by the ultimate consumer for personal consumption only.

(b) The provisions of Subsection (a) of this section do not apply to LPG handled in a container of less than one gallon water capacity that is an integral part of a device for its use, nor to original and replacement containers for the device, nor to a person who is not engaged in business as provided in Section 113.082 of this code.

[Acts 1977, 65th Leg., p. 2596, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980; Acts 1983, 68th Leg., p. 5428, ch. 1011, § 1, eff. Aug. 29, 1983.]

§ 113.082. Categories of Licensee; Fees

A prospective licensee in LPG may apply to the LPG division for a license to engage in any one or more of the following categories:

(A) manufacturers/fabricators: the manufacture, fabrication, assembly, repair, installation,

subframing, and sale of LPG containers, including LPG motor fuel containers and systems, and the repair and installation of transport and transfer systems; and category "A" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$600 as determined by the commission;

(B) transport outfitters: the subframing and sale of LPG transport containers, the installation and sale of LPG motor fuel containers, and the installation and repair of transport and motor fuel systems; the category "B" application and original license fee is an amount not to exceed \$200 as determined by the commission; the annual renewal license fee is an amount not to exceed \$100 as determined by the commission;

(C) carriers: the transportation of LPG by transport, including the loading and unloading of LPG, and the installation and repair of transport systems; the category "C" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(D) general installers and repairmen: the sale, service, and installation of containers, excluding motor fuel containers, and the service, installation, and repair of piping, certain appliances as defined by rule, and LPG systems, excluding motor fuel systems; except that the commission may, by rule, exempt journeymen and/or master plumbers duly licensed by the Texas State Board of Plumbing Examiners from this licensing requirement; the category "D" application and original license fee is an amount not to exceed \$100 as determined by the commission; the annual renewal license fee is an amount not to exceed \$70 as determined by the commission;

(E) retail and wholesale dealers: the storage, sale, transportation, and distribution of LPG at retail and wholesale, and all other activities included in this section except the manufacture, fabrication, assembly, repair, and subframing of LPG containers; the category "E" application and original license fee is an amount not to exceed \$750 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(F) bottle exchanges: the operation of a bottle-filling and container exchange dealership, including bottle filling and the sale of bottled LPG; the category "F" application and original license fee is an amount not to exceed \$100 as determined by the commission; the annual renewal license fee is an amount not to exceed \$50 as determined by the commission;

(G) service station: the operation of an LPG service station filling ASME containers designed for motor and mobile fuel; the category "G"

application and original license fee is an amount not to exceed \$100 as determined by the commission; the annual renewal license fee is an amount not to exceed \$50 as determined by the commission;

(H) bottle dealers: the transportation and sale of bottled LPG; the category "H" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(I) service station and bottle exchanges: any service station and bottle activity set out in categories "F" and "G" of this section; the category "I" application and original license fee is an amount not to exceed \$150 as determined by the commission; the annual renewal license fee is an amount not to exceed \$70 as determined by the commission;

(J) service station and bottle dealerships: the operation of a bottle-filling and container-exchange dealership, including bottle filling and the sale, transportation, installation, and connection of bottled LPG, and the operation of an LPG service station as set out in category "G"; the category "J" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(K) distribution system: the sale and distribution of LPG through mains or pipes and the installation and repair of LPG systems; the category "K" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(L) carburetion: the sale and installation of LPG motor fuel containers, and the sale and installation of LPG motor fuel systems; application and original license fee is an amount not to exceed \$100 as determined by the commission; annual renewal license fee is an amount not to exceed \$50 as determined by the commission.

[Acts 1977, 65th Leg., p. 2597, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980; Acts 1983, 68th Leg., p. 1168, ch. 263, § 7, eff. Sept. 1, 1983.]

[Section 113.083 reserved for expansion]

§ 113.084. Application

(a) An application for a license shall be submitted to the commission on forms furnished by the commission or on a facsimile of those forms.

(b) A prospective licensee shall submit the required application together with the original nonrefundable license fee required by Section 113.082 of this code for each category for which a license

application is made. The applicant shall submit additional information and data with each application as the commission may reasonably require.

(c) A licensee shall submit the nonrefundable renewal fee for each category for which license is sought along with information and data the commission may reasonably require.

[Acts 1977, 65th Leg., p. 2598, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.085 to 113.086 reserved for expansion]

§ 113.087. Examination and Seminar Requirements

(a) The satisfactory completion of the requirements of this section is mandatory, and operations requiring an LP-gas license may not commence, continue, or resume unless examination and seminar requirements are fulfilled.

(b) Before license issuance, the commission shall require the individual designated as the licensee's representative to the commission to provide good and sufficient proof through examination prepared and administered by the commission of working knowledge of this chapter and rules of the commission which affect the category of license for which application is made. Thereafter, each licensee shall maintain a qualified representative at all times.

(c) Each individual who will be actively supervising those operations requiring any license under this chapter at any outlet or location, as designated by the commission, shall be required to provide good and sufficient proof through examination prepared and administered by the commission that the supervisor has a working knowledge of the safety requirements and penalties in this chapter and the rules of the commission which apply to that category of license.

(d) As determined by commission rule, each individual who is or will be utilized by a licensee in LPG-related activities shall be required to provide good and sufficient proof through examination prepared and administered by the commission that the employee has a working knowledge of the safety requirements in the rules of the commission relating to the activity or activities.

(e) No licensee may employ or otherwise utilize any person as a representative to the commission, nor as a supervisor or employee in LPG-related activities, unless and until the person has qualified by satisfactory completion of the examination requirements established by this section.

(f) The commission shall promulgate rules relating to changes in representatives, supervisors, and employees, and may permit temporary exemption from the examination requirements for a maximum period of 45 days.

(g) In no event shall an original license be issued to an applicant when the representative's required examination was last taken and passed more than five years before the proposed date of license issuance.

(h) Satisfactory completion of any required examination under this section shall accrue to the individual.

(i) Not later than the 30th day on which an examination is administered under this section, the commission shall notify each examinee of the results of the examination. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commission shall notify the examinee of the reason for the delay before the 90th day.

(j) If requested in writing by a person who fails the licensing examination administered under this section, the commission shall furnish the person with an analysis of the person's performance on the examination.

(k) The commission, by appropriate rule, may require, in addition to examination requirements as set out in Subsections (b), (c), and (d) of this section, attendance at approved academic, trade, professional, or commission-sponsored seminars, other continuing education programs, and periodic reexaminations.

[Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980; Acts 1983, 68th Leg., p. 1168, ch. 263, § 7, eff. Sept. 1, 1983.]

§ 113.088. Examination; Seminar Fees

(a) The commission shall establish reasonable examination and seminar registration fees.

(b) Before seminar attendance or examination of any person, except as provided in Subsection (c) of this section, the commission shall receive a nonrefundable fee for each examination or seminar registration.

(c) The commission may exempt voluntary firemen, or public employees of the State of Texas, federal government, or state or federal subdivisions from seminar fees.

[Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.089. Special Requirements for Licensing

(a) If application is made for a license under category "E" of Section 113.082 of this code or any other category specified by commission rule, the commission, in addition to other requirements, shall have an actual inspection conducted of any and all facilities, bulk storage equipment, transportation equipment, and dispensing equipment of the appli-

cant to verify satisfactory compliance with all current safety laws, rules, and practices.

(b) The inspection shall be performed before licensing, but in no event later than 15 days after the inspection is requested in writing by the applicant for license.

(c) A category "E" license and any other license specified by commission rule shall not be issued until the inspection under Subsection (a) of this section verifies the applicant to be in satisfactory compliance with all current safety laws, rules, and practices.

[Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Section 113.090 reserved for expansion]

§ 113.091. License Denial

(a) Should an applicant fail to meet the requirements for original or renewal licensing set out in this chapter, the commission shall have written notification prepared promptly and mailed to the applicant. The notice shall specify the reason for the applicant's failure to qualify for license and advise the applicant of the right to request a hearing.

(b) Within 30 days of the notice of denial, an applicant for license under this chapter who is denied a license may request a hearing to determine whether or not the applicant has complied in all respects with the licensing procedure applicable to the category or categories of license sought. The applicant's request for hearing must be in writing and delivered to the director of the LP-gas division.

(c) A hearing to determine an applicant's compliance with the licensing procedure applicable to the category or categories of license sought must be scheduled within 30 days following receipt of a request under Subsection (b) of this section.

(d) If the record made at the hearing supports the applicant's claim, the commission shall enter an order in its records to that effect, noting the category or categories for which the applicant is found entitled to be licensed, and the commission shall have the license or licenses issued. If the applicant is found unqualified, the commission shall likewise enter an order in its records to that effect, and no license may be issued to the applicant.

[Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.092. License Issuance

(a) The commission shall issue the appropriate license to an applicant who has satisfied the licensing procedures and requirements set out in this chapter and in the rules of the commission.

(b) The license shall be issued in the name under which the applicant proposes to conduct business.

(c) The license shall belong to the applicant to which it is issued and shall be nontransferable.

[Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.093. License Renewal

(a) A license issued pursuant to this chapter is renewable on the timely payment or tender of the renewal license fee before the expiration date of the license each year.

(b) If a person's license has been expired for not longer than 90 days, the person may renew the license by paying to the commission the required renewal fee and a fee that is one-half of the amount of the renewal fee for the license.

(c) If a person's license has been expired for longer than 90 days but less than two years, the person may renew the license by paying to the commission all unpaid renewal fees and a fee that is equal to the amount of the unpaid renewal fees for the license.

(d) If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

(e) A renewal license will be issued to a licensee as soon as is practicable after compliance with this section, and fulfillment of insurance, examination, and seminar requirements established by this chapter, and submission of any information and data the commission may reasonably require.

(f) Renewal license fees shall be nonrefundable.

(g) At least 30 days before the expiration of a person's license the commission shall notify the person in writing of the impending license expiration and shall attempt to obtain from the person a signed receipt confirming receipt of the notice.

[Acts 1977, 65th Leg., p. 2600, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980; Acts 1983, 68th Leg., p. 1168, ch. 263, § 7, eff. Sept. 1, 1983.]

Section 2 of the 1979 amendatory act provided:

"All current LPG licenses and registrations duly issued by the commission before September 1, 1980, shall be deemed valid in all respects and may be renewed on September 1, 1980, as provided in this Act without penalty or other abridgement of rights or privileges."

§ 113.094. Staggered Renewal of Licenses

The commission, by rule, may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees payable on a specified date shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On re-

newal of the license on the new expiration date, the total license renewal fee is payable.

[Acts 1983, 68th Leg., p. 1174, ch. 263, § 8, eff. Sept. 1, 1983.]

§ 113.095. License by Endorsement

The commission may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

[Acts 1983, 68th Leg., p. 1174, ch. 263, § 8, eff. Sept. 1, 1983.]

[Section 113.096 reserved for expansion]

§ 113.097. Insurance Requirement

(a) The commission shall not issue a license authorizing activities under Section 113.082 of this code or renew an existing license unless the applicant for license or license renewal provides proof of required insurance coverage with an insurance carrier authorized to do business in this state.

(b) A licensee shall not perform any licensed activity under Section 113.082 of this code unless the insurance coverage required by this chapter is in effect.

(c) Except as provided in Section 113.099 of this code, the types and amounts of insurance provided in Subsections (d) through (g) of this section are required while engaged in any of the activities set forth in Section 113.082 of this code or any activity incidental thereto.

(d) A category "C," "E," "H," or "J" licensee must carry automobile bodily injury and property damage liability coverage on each motor vehicle, including trailers and semitrailers, used to transport LP-gas. The commission shall establish by rule a reasonable amount of coverage to be maintained, except that coverage shall not be less than the amounts required as proof of financial responsibility under the Texas Motor Vehicle Safety-Responsibility Act, as amended (Article 6701h, Vernon's Texas Civil Statutes).

(e) All licensees must carry general liability coverage in a reasonable amount, based on the type or types of licensed activities, which shall be established by commission rule.

(f) All licensees must carry workers' compensation, including employer's liability coverage.

(g) A category "A," "C," or "E" licensee must carry completed operations and products liability insurance in a reasonable amount, based on the type or types of licensed activities, which shall be established by commission rule.

[Acts 1977, 65th Leg., p. 2600, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2696, ch. 871, art. II, § 12, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.098. Insurance Conditions

(a) As evidence that required insurance has been secured and is in force, certificates of insurance shall be filed with the division before licensing and license renewal.

(b) All certificates filed under this section shall be continuous in duration.

(c) Cancellation of a certificate of insurance becomes effective on the occurrence of any of the following events and not before:

(1) division receipt of written notice stating the insurer's intent to cancel a policy of insurance and the passage of time equivalent to the notice period required by law to be given the insured before the insurance cancellation;

(2) receipt by the division of an acceptable replacement insurance certificate;

(3) voluntary surrender of a license and the rights and privileges conferred by the license; or

(4) division receipt of a statement made by a licensee stating that the licensee is not actively engaging in any operations which require a particular type of insurance and will not engage in those operations unless and until all certificates of required insurance applicable to those operations are filed with the division.

(d) Cancellation under Subsection (c) of this section shall not become effective until approved by the commission.

[Acts 1977, 65th Leg., p. 2601, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.099. Statements in Lieu of Insurance Certificates

(a) A category "C," "E," "H," or "J" licensee or applicant for license that does not operate or contemplate the operation of a motor vehicle equipped with an LP-gas cargo tank and does not transport or contemplate the transportation of LP-gas by vehicle in any manner, may make and file with the division a statement to that effect in lieu of filing a certificate of automobile bodily injury and property damage insurance.

(b) A licensee or applicant for a license that does not engage in or contemplate engaging in any operations which would be covered by general liability insurance for a period of time may make and file with the division a statement to that effect in lieu of filing a certificate of general liability insurance.

(c) A licensee or applicant for license that does not employ or contemplate the hiring of an employee or employees to be engaged in LPG-related activities may make and file with the division a statement to that effect in lieu of filing a certificate of workers' compensation insurance including employer's liability insurance.

(d) A category "A," "C," or "E" licensee or applicant for a license that does not engage in or contemplate engaging in any LP-gas operations which would be covered by completed operations and products liability for a period of time may make and file with the division a statement to that effect in lieu of filing a certificate of completed operations and products liability insurance.

(e) Any statement filed pursuant to Subsections (a) through (d) of this section must further state that the licensee or applicant agrees to file a certificate of insurance evidencing appropriate coverage before engaging in any activities that require insurance coverage under this subchapter.

[Acts 1977, 65th Leg., p. 2601, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.100 and 113.101 reserved for expansion]

§ 113.102. Prior Licenses

(a) Except as provided in Subsection (c) of this section, all prior LP-gas licenses authorizing activities previously defined by this chapter as categories 1 through 12 shall, on an applicant's compliance with the renewal procedure set out in this chapter, be converted to a license identified by category letter as specified in Subsection (b) of this section.

(b) A category "1" license shall become a category "A" license, and a category "4" shall become a category "C"; a "5," a "D"; a "6," an "E"; an "8," an "F"; a "9," a "G"; a "10," a "K"; an "11," an "H"; an "8" and "9," an "I"; an "8," "9," "11," and "12," a "J"; and an "8," "9," "11," and "5," a "J"; a "7," an "L", as those letter categories are defined in Section 113.082 of this code.

(c) Previously issued licenses designated as authorizing category "2" or "3" activities shall expire.

[Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.103 to 113.130 reserved for expansion]

SUBCHAPTER E. MOTOR VEHICLES AND TESTING LABORATORIES

§ 113.131. Transport Trucks and Trailers

(a) Each transport truck, trailer, or other motor vehicle equipped with an LPG cargo tank and each truck used principally for transporting LPG in portable containers shall be registered with the commission.

(b) A licensee who has purchased, leased, or obtained other rights to use any unit described in Subsection (a) of this section shall register that unit in the name or names under which the licensee conducts business before the transportation of LPG by means of that unit.

(c) An ultimate consumer of LPG who has purchased, leased, or obtained other rights to use any unit described in Subsection (a) of this section shall register that unit in the person's name before the transportation of LPG by means of that unit on public roads or highways.

(d) The registration fee for each unit is \$150 a year for any LPG cargo trailer or semitrailer and \$100 a year for any bobtail or bottle-delivery unit.

(e) Any unit registered pursuant to this section shall be covered by automobile bodily injury and property damage liability insurance as prescribed by Section 113.097 of this code.

(f) Any delivery or transport driver shall meet the applicable examination and seminar requirements set out in Section 113.087 of this code.

[Acts 1977, 65th Leg., p. 2601, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Section 113.132 reserved for expansion]

§ 113.133. Motor Carrier Laws

No provision of this chapter shall be construed to modify, amend, or revoke any motor carrier law of this state.

[Acts 1977, 65th Leg., p. 2601, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.134. Department of Public Safety

The Department of Public Safety shall cooperate with the commission in the administration and enforcement of this chapter and the rules promulgated under this chapter to the extent that they are applicable to motor vehicles.

[Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.135. Testing Laboratories

(a) Any person that proposes to test any container for the purpose of determining the safety of the container for LP-gas service shall apply for registration with the commission and provide any information the commission shall reasonably require.

(b) The commission shall determine the sufficiency of the application and shall act on each application by approving or denying the registration pursuant to the standards set out in Subsections (c) and (d) of this section.

(c) Should it appear to the commission that an applicant is unqualified to conduct or continue to conduct container testings with the expertise or thoroughness necessary to accurately determine the safety of a container for LP-gas service, a formal hearing shall be held following notice of the hearing, and a determination of the qualifications of the applicant or registrant shall be made.

(d) Should competent evidence presented at the hearing establish that the applicant or registrant is unqualified to determine the safety of a container for LP-gas service, the registration of that person shall be denied or revoked.

[Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.136 to 113.160 reserved for expansion]

SUBCHAPTER F. SUSPENSION AND REVOCATION OF LICENSES AND REGISTRATIONS

§ 113.161. Violations of Chapter or Rules; Informal Actions

(a) The commission shall notify a licensee or registrant in writing when it finds probable violation or noncompliance with this chapter or the safety rules promulgated under this chapter.

(b) The notification shall specify the particular acts, omissions, or conduct comprising the alleged violation and shall designate a date by which the violation must be corrected or discontinued.

(c) The licensee or registrant shall report timely compliance or shall request extension of time for compliance if deemed necessary.

(d) If a licensee or registrant objects to the complaint or requirements under this section, or if the commission determines that the licensee or registrant is not proceeding adequately to compliance, then, on written request of the licensee or registrant or order of the commission, a public hearing shall be conducted as provided in Section 113.162 of this code.

(e) If the commission or division determines that the probable violation or noncompliance constitutes an immediate danger to the public health, safety, and welfare, it shall require the immediate cessation of the probable violation or noncompliance and proceed with a hearing as provided in Section 113.162 of this code.

[Acts 1977, 65th Leg., p. 2602, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.162. Hearings

Any hearing or proceeding under this chapter shall be subject to the provisions of the Administrative Procedure and Texas Register Act.¹

[Acts 1977, 65th Leg., p. 2602, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

¹ Civil Statutes, art. 6252-13a.

§ 113.163. Findings and Judgment

(a) If the commission finds that the licensee or registrant has violated or failed to comply with or is violating or failing to comply with this chapter or a rule or standard promulgated and adopted under this chapter, or both, the commission may suspend the license or registration for a definite period not to exceed 90 days or may revoke the license or registration. If the commission determines that no violation has occurred or is occurring, its order shall so state.

(b) The commission may place on probation a person whose license or registration has been suspended under Subsection (a) of this section, but if the commission does place the licensee or registrant on probation and does allow him to continue to operate, the fact that the license or registration has been suspended and the licensee or registrant has been put on probation shall appear in the records of the commission relating to the suspension and probation.

[Acts 1977, 65th Leg., p. 2602, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980; Acts 1983, 68th Leg., p. 1167, ch. 263, § 5, eff. Sept. 1, 1983.]

§ 113.164. Appeal

Any party to a proceeding before the commission is entitled to judicial review under the substantial evidence rule.

[Acts 1977, 65th Leg., p. 2602, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.165 to 113.200 reserved for expansion]

SUBCHAPTER G. FEES AND FUNDS

§ 113.201. Deposit and Expenditure of Fees and Funds

Money received by the commission under this chapter shall be deposited in the state treasury to the credit of the General Revenue Fund and spent in accordance with the appropriations made by law.

[Acts 1977, 65th Leg., p. 2603, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2696, ch. 871, art. II, § 10, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980; Acts 1981, 67th Leg., p. 144, ch. 65, § 2, eff. Sept. 1, 1981.]

[Sections 113.202 to 113.230 reserved for expansion]

SUBCHAPTER H. ENFORCEMENT

§ 113.231. Injunctions

(a) On request of the commission, the attorney general may bring an action in the name and on behalf of the state to enjoin a person from commit-

ting any act that violates or does not comply with any provision of this chapter or of any rule promulgated under this chapter.

(b) A suit for injunction instituted pursuant to Subsection (a) of this section shall be in addition to any other remedies at law or in equity.

(c) A district court of any county in which it is shown that all or part of the acts have been or are about to be committed has jurisdiction of an action brought under Subsection (a) of this section.

(d) No bond for injunction may be required of the commission or the attorney general in relation to a proceeding instituted pursuant to Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2604, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.232. General Penalty

(a) In addition to injunctive relief and other penalties provided in this chapter, a person who knowingly violates or fails to comply with this chapter or rules adopted under this chapter is guilty of a misdemeanor and is punishable by a fine of not less than \$25 nor more than \$200.

(b) A person previously convicted under Subsection (a) of this section who knowingly violates or fails to comply with this chapter is guilty of a misdemeanor punishable by a fine of not less than \$200 nor more than \$2,000.

(c) A penalty prescribed by this section is in addition to injunctive relief and other penalties provided by this chapter.

(d) Each day the violation or failure to comply continues constitutes a separate offense.

[Acts 1977, 65th Leg., p. 2604, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980; Acts 1983, 68th Leg., p. 5429, ch. 1011, § 2, eff. Aug. 29, 1983.]

§ 113.233. Entry for Inspection

An inspector, employee, or agent of the commission may enter the premises of a licensee under this chapter or any building or other premises open to the public at any reasonable time for the purpose of determining and verifying compliance with this chapter and the safety rules of the commission.

[Acts 1977, 65th Leg., p. 2604, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.234. Warning Tag

An inspector, employee, or agent of the commission may declare any container, appliance, equipment, transport, or system that does not conform to the safety requirements of this chapter or rules adopted under this chapter, or which is otherwise

defective, as unsafe or dangerous for LP-gas service and shall attach a warning tag in a conspicuous location.

[Acts 1977, 65th Leg., p. 2604, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.235. Supplying or Removing LPG After Warning Tag Attached

(a) Any person who knowingly sells, furnishes, delivers, or supplies LPG for storage in or use or consumption by or through a container, appliance, transport, or system to which a warning tag is attached is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 and not more than \$2,000.

(b) LP-gas shall be removed from a container to which a warning tag is attached only under the direction of the commission.

[Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.236. Penalty for Unauthorized Removal of Tag

An unauthorized person who knowingly removes, destroys, or in any way obliterates a warning tag attached to a container, appliance, transport, or system is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 and not more than \$2,000.

[Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

CHAPTER 114. OIL TANKER VEHICLES

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SUBCHAPTER A. GENERAL PROVISIONS

§ 114.001. Definitions

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Liquid hydrocarbons" means unrefined oil or condensate, and refined oil or condensate to be blended with unrefined liquid hydrocarbons.

(3) "Transporter" means each gatherer, storer, or other handler of liquid hydrocarbons who moves or transports those liquid hydrocarbons by truck or other motor vehicle.

(4) "Oil tanker vehicle" means a motor vehicle licensed for highway use on a public highway or used on a public highway:

(A) that is equipped with, carrying, pulling, or otherwise transporting an assembly, compartment, tank, or other container that is used for transporting, hauling, or delivering liquids; and

(B) that is being used to transport liquid hydrocarbons on a public highway.

(5) "Public highway" means a way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, even if the way or place is temporarily closed for the purpose of construction, maintenance, or repair.

(6) "Lease" means a well producing oil, gas, or oil and gas, and any group of contiguous wells producing oil, gas, or oil and gas of any number operated as a producing unit.

(7) "Facility" means any place used to store, process, refine, reclaim, dispose of, or treat liquid hydrocarbons.

(8) "Cargo manifest" means one or more documents that together contain the information required by Section 114.012 of this code.

[Acts 1983, 68th Leg., p. 1230, ch. 263, § 30, eff. Sept. 1, 1983.]

§ 114.002. **Applicability of Chapter**

This chapter does not apply to:

(1) a common carrier as defined by and regulated under Chapter 111 of the Natural Resources Code; or

(2) the movement by a person or entity by motor vehicle of salt water, brine, sludge, drilling mud, and other liquid or semiliquid material arising out of or incidental to drilling for or producing oil or gas if:

(A) the commission has authorized the person or entity to move or transport the material and the material being moved or transported contains less than seven percent liquid hydrocarbons by volume; or

(B) the person or entity is not moving or transporting the material for hire and the material being moved or transported contains less than seven percent liquid hydrocarbons by volume.

[Acts 1983, 68th Leg., p. 1230, ch. 263, § 30, eff. Sept. 1, 1983.]

[Sections 114.003 to 114.010 reserved for expansion]

SUBCHAPTER B. CARGO MANIFEST

§ 114.011. **Cargo Manifest Required**

A cargo manifest must be carried in each oil tanker vehicle transporting liquid hydrocarbons on a public highway in this state and must be presented on request for inspection as provided by Section 114.101 of this code.

[Acts 1983, 68th Leg., p. 1230, ch. 263, § 30, eff. Sept. 1, 1983.]

§ 114.012. **Contents of Cargo Manifest**

For each load of liquid hydrocarbons loaded onto and transported by an oil tanker vehicle, the cargo manifest must include:

(1) an identification of the lease or facility from which the liquid hydrocarbons were removed which must include:

(A) the lease or facility name; and

(B) the name of the operator of the lease or facility;

(2) the total quantity of liquid hydrocarbons removed from the lease or facility and loaded onto the oil tanker vehicle;

(3) the date and hour when the liquid hydrocarbons were removed from the lease or facility and loaded onto the oil tanker vehicle;

(4) the identity of the transporter which must include:

(A) the company or individual transporter's name and address;

(B) the oil tanker vehicle driver's name; and

(C) a unique number for the oil tanker vehicle that for a truck tractor and semitrailer type oil tanker vehicle must include unique vehicle numbers for both truck tractor and semitrailer; and

(5) the intended point of destination for the liquid hydrocarbons, including the name of the receiving facility.

[Acts 1983, 68th Leg., p. 1230, ch. 263, § 30, eff. Sept. 1, 1983.]

§ 114.013. **Copy of Cargo Manifest Left at Lease or Facility**

(a) A copy of the cargo manifest must be left at the lease or facility from which the liquid hydrocarbons were removed or delivered to the lease or facility operator, his agent, or his representative.

(b) The requirements of this section may be met by leaving a separate document at the lease or facility from which the liquid hydrocarbons were removed or delivering to the lease or facility operator a separate document that includes information

required under Subdivisions (1)-(3) and Subdivisions (4)(A) and (B), Section 114.012, of this code.

(c) If more than one load of liquid hydrocarbons are removed from a single tank or other container of liquid hydrocarbons within a period of 24 consecutive hours, Subdivisions (2) and (3), Section 114.012, of this code may be met for purposes of this section by a separate document that includes:

- (1) the total quantity of liquid hydrocarbons removed;
- (2) the date and hour the first load was removed; and
- (3) the date and hour the last load was removed.

(d) If the operator of a facility requires that a transporter leave at the facility or deliver to the operator a document other than the transporter's cargo manifest, a transporter may meet the requirements of this section by leaving those specified documents at an agreed location or delivering the document to the operator.

[Acts 1983, 68th Leg., p. 1230, ch. 263, § 30, eff. Sept. 1, 1983.]

§ 114.014. Cargo Manifest Records

After the delivery of all liquid hydrocarbons in an oil tanker vehicle is completed, the cargo manifest must be maintained in the records of the transporter for a period of not less than two years from the date the liquid hydrocarbons are removed from the oil tanker vehicle.

[Acts 1983, 68th Leg., p. 1230, ch. 263, § 30, eff. Sept. 1, 1983.]

[Sections 114.015 to 114.100 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT

§ 114.101. Authority to Examine Cargo Manifests

The commission, its designated agents or employees, or a peace officer may examine a cargo manifest, whether it is on an oil tanker vehicle or in the records of the transporter, under circumstances where the examination is a lawful attempt to determine whether this chapter is being violated.

[Acts 1983, 68th Leg., p. 1230, ch. 263, § 30, eff. Sept. 1, 1983.]

§ 114.102. Criminal Offenses

(a) A person commits an offense if the person knowingly or intentionally:

- (1) fails to leave a copy of the cargo manifest or other document as required under Section 114.013 of this code at the lease or facility from which the liquid hydrocarbons were removed or fails to deliver a copy of the cargo manifest or other document as required under Section 114.013 of

this code to the operator of the lease or facility, his agent, or his representative;

(2) operates an oil tanker vehicle without a cargo manifest as required by this chapter;

(3) fails to maintain cargo manifest records as required under Section 114.014 of this code; or

(4) forges or falsifies a cargo document or documents required by this chapter or exhibits a cargo document or documents knowing that those documents are forged or falsified.

(b) An offense under this section is a felony of the third degree.

(c) It is an affirmative defense to prosecution under Subdivision (1), (2), or (3), Subsection (a), of this section that the person charged with the offense provides the information required by Section 114.012 of this code.

(d) A penalty imposed for violation of this chapter is in addition to any civil or administrative penalty or sanction authorized by Sections 85.042 and 85.201 of this code or any other provision of law.

[Acts 1983, 68th Leg., p. 1230, ch. 263, § 30, eff. Sept. 1, 1983.]

CHAPTER 116. COMPRESSED NATURAL GAS

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SUBCHAPTER A. GENERAL PROVISIONS

§ 116.001. Definitions

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Compressed natural gas" means natural gas that is compressed and used, stored, sold, transported, or distributed for use by or through a CNG system.

(3) "CNG cylinder" means a cylinder or other container designed for use or used as part of a CNG system.

(4) "CNG system" means a system of safety devices, cylinders, piping, fittings, valves, compressors, regulators, gauges, relief devices, vents, installation fixtures, and other compressed natural gas equipment intended for use or used in any building or public place by the general public or in conjunction with a motor vehicle fueled by compressed natural gas and any system of equipment designed to be used or used in the compression, sale, storage, transportation for delivery, or distribution of compressed natural gas in portable CNG cylinders, but does not include a natural gas pipeline located upstream of the inlet of the compressor.

(5) "Motor vehicle" means a self-propelled vehicle licensed for highway use or used on a public highway.

(6) "Compressed natural gas cargo tank" means a container in accordance with A.S.M.E. or D.O.T. specifications and used to transport compressed natural gas for delivery.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.002. Exceptions

This chapter does not apply to:

(1) the production, transportation, storage, or distribution of natural gas that is not included in the definition of compressed natural gas; or

(2) pipelines, fixtures, and other equipment used in the natural gas industry that are not used or designed to be used as part of a CNG system.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

[Sections 116.003 to 116.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 116.011. Administration

The commission shall administer and enforce this chapter and rules and standards adopted under this chapter relating to compressed natural gas.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.012. Rules and Standards

To protect the health, safety, and welfare of the general public, the commission shall adopt necessary rules and standards relating to compressed natural gas work and operations.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.013. National Codes

The commission may adopt by reference in its rules all or part of the published codes of nationally recognized societies as standards to be met in the design, construction, fabrication, assembly, installation, use, and maintenance of compressed natural gas components and equipment.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.014. Fees

(a) Fees collected by the commission under Section 116.034 of this code for training, examinations, and seminars must be deposited in a special fund in the state treasury designated as the compressed natural gas examination fund. The commission shall use money in this fund to pay the cost of training, examinations, and seminars furnished or administered by the commission.

(b) Except as provided by Subsection (a) of this section, money collected by the commission as fees under this chapter shall be deposited in the general revenue fund.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.015. Entry on Property; Inspection

An employee, agent, or inspector of the commission may enter property of a person licensed under this chapter at any reasonable time and may inspect any motor vehicle equipped with compressed natural gas equipment to determine if the licensee is complying with or if the motor vehicle is in compliance with this chapter and rules of the commission adopted under this chapter.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

[Sections 116.016 to 116.030 reserved for expansion]

SUBCHAPTER C. LICENSING

§ 116.031. License Requirement

(a) Unless a person has obtained a license from the commission under this chapter, the person may not engage in the following work:

(1) cylinder work that includes the manufacture, assembly, repair, sale, installation, or sub-framing of CNG cylinders for use in this state;

(2) systems work that includes the sale, installation, service, or repair of CNG systems for use in this state; or

(3) product work that includes the sale, storage, transportation for delivery, or dispensing of compressed natural gas in this state.

(b) A license obtained by a partnership, corporation, or other legal entity extends to the entity's employees who are performing compressed natural gas work, provided that each employee is qualified as required by rules adopted by the commission.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.032. License Categories and Fees

(a) The commission shall adopt rules establishing license categories and license fees to be charged for application for and issuance and renewal of licenses in each category.

(b) The commission may establish fees for each category of license. A fee may not exceed \$1,000.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.033. Application and Renewal Procedures

The commission shall adopt rules establishing procedures for submitting and processing applications for issuance and renewal of licenses.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.034. Examination and Seminar Requirements

(a) The commission shall adopt rules providing the training, examination, and seminar attendance requirements for persons who wish to be licensed under this chapter.

(b) The commission may adopt a reasonable fee to cover the cost of any training, examination, or seminar required by and furnished or administered by the commission.

(c) Before a license may be issued, the person to be licensed must satisfactorily complete the train-

ing, examinations, and seminars required by the commission.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.035. Denial of License

The commission may deny issuance or renewal of a license to any person who fails to qualify under the requirements of this chapter and rules adopted by the commission under this chapter. The commission shall give written notice to an applicant for the issuance or renewal of a license of the denial of the license and the reasons for denial.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.036. Insurance Requirement

(a) A person licensed under this chapter must acquire and maintain appropriate workers' compensation and other insurance coverage required by the commission in the amounts required by the commission.

(b) The commission shall adopt rules establishing specific requirements for insurance coverage under this chapter. The types and amounts of insurance coverage required by the commission shall be based on the type and category of licensed activity.

(c) The commission may not issue or renew a license, and a licensee may not perform any licensed activity unless the insurance coverage required by the commission's rules is in effect and evidence of that coverage is filed with the commission as required by commission rule.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.037. Suspension and Revocation of License

(a) The commission shall notify a licensee in writing if it finds probable violation or noncompliance with this chapter or the rules adopted under this chapter.

(b) The notice shall specify the particular acts, omissions, or conduct comprising the alleged violation and shall designate a date by which the violation must be corrected or discontinued.

(c) The licensee shall report timely compliance or shall request extension of time for compliance if considered necessary.

(d) If a licensee objects to the complaint or requirements under this section, or if the commission determines that the licensee is not proceeding adequately to compliance, then, on written request of the licensee or order of the commission, a public hearing must be conducted.

(e) If the commission or division determines that the probable violation or noncompliance constitutes an immediate danger to the public health, safety,

and welfare, it shall require the immediate cessation of the probable violation or noncompliance and proceed with a hearing.

(f) If the commission finds that the licensee has violated or failed to comply with or is violating or failing to comply with this chapter or a rule adopted under this chapter, the commission may suspend the license for a definite period not to exceed 90 days or may revoke the license.

(g) Any party to a proceeding before the commission is entitled to judicial review under the substantial evidence rule.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

[Sections 116.038 to 116.070 reserved for expansion]

SUBCHAPTER D. MOTOR VEHICLE REGULATION

§ 116.071. Registration Rules

The commission shall adopt rules relating to the registration of motor vehicles that are equipped with compressed natural gas cargo tanks and motor vehicles used principally to transport compressed natural gas in portable cylinders.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.072. Registration

Each motor vehicle that is equipped with a compressed natural gas cargo tank and each motor vehicle used principally to transport compressed natural gas in portable cylinders must be registered with the commission as provided by commission rules.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.073. Safety Rules

The commission shall adopt safety rules relating to the transportation of compressed natural gas in this state.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.074. Cooperation of the Department of Public Safety

The Department of Public Safety shall cooperate with the commission in administering and enforcing this chapter and rules of the commission relating to regulation of motor vehicles required to be registered under this subchapter.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.075. Suspension and Revocation of Registration

(a) The commission shall notify a registrant in writing if it finds probable violation or noncompliance with this chapter or the safety rules adopted under this chapter.

(b) The notice shall specify the particular acts, omissions, or conduct comprising the alleged violation and shall designate a date by which the violation must be corrected or discontinued.

(c) The registrant shall report timely compliance or shall request extension of time for compliance if considered necessary.

(d) If a registrant objects to the complaint or requirements under this section, or if the commission determines that the registrant is not proceeding adequately to compliance, then, on written request of the registrant or order of the commission, a public hearing must be conducted.

(e) If the commission or division determines that the probable violation or noncompliance constitutes an immediate danger to the public health, safety, and welfare, it shall require the immediate cessation of the probable violation or noncompliance and proceed with a hearing.

(f) If the commission finds that the registrant has violated or failed to comply with or is violating or failing to comply with this chapter or a rule adopted under this chapter, the commission may suspend the registration for a definite period not to exceed 90 days or may revoke the registration.

(g) Any party to a proceeding before the commission is entitled to judicial review under the substantial evidence rule.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.076. Application of Other Laws

This chapter and the rules adopted under this chapter do not modify, amend, or repeal any laws of this state relating to the regulation of motor carriers.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

[Sections 116.077 to 116.100 reserved for expansion]

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

§ 116.101. Malodorants

Compressed natural gas must be odorized as provided by Section 2, Article 6053, Revised Statutes, as amended.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.102. Testing Laboratories

The commission shall adopt rules relating to testing compressed natural gas equipment and to the qualifications required of the persons who are to perform those tests.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.103. Warning Tags

(a) An employee, agent, or inspector of the commission may declare unsafe or dangerous for service any motor vehicle required to be registered under this chapter, compressed natural gas equipment, or CNG system that is defective or that does not otherwise conform to the safety requirements of this chapter and the rules adopted under this chapter and shall attach a warning tag to the motor vehicle, equipment, or system in a conspicuous location.

(b) A person may not sell, furnish, deliver, or supply compressed natural gas for use or consumption by or through a motor vehicle or system in a public place or operate a motor vehicle having compressed natural gas equipment to which a warning tag is attached.

(c) A warning tag may be removed on approval of the commission or by a person designated by the commission to remove the tag. A warning tag may not be removed by any person who is not authorized to remove the tag by the commission.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

[Sections 116.104 to 116.140 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

§ 116.141. Injunctive Relief

(a) On request of the commission, the attorney general shall bring suit in the name of the state to enjoin a person from violating this chapter or a rule adopted under this chapter.

(b) A suit for injunction instituted under this section is in addition to other remedies available to the commission under this chapter.

(c) A suit seeking injunctive relief under this section shall be brought in a district court in Travis County.

(d) The commission is not required to provide a bond in a suit instituted under this section.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.142. Criminal Penalty

(a) A person who knowingly violates this chapter or rules adopted by the commission under this chapter commits an offense.

(b) An offense under this section is punishable by a fine of not less than \$100 nor more than \$5,000.

(c) Each day a violation continues constitutes a separate offense.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.143. Administrative Penalty

(a) If a person violates this chapter, a rule of the commission adopted under this chapter, or a term, condition, or provision of a license or registration issued by the commission under this chapter and the violation results in pollution of the air or water of this state or poses a threat to the public safety, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the person's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.144. Penalty Assessment Procedure

(a) A civil penalty under Section 116.145 of this code may be assessed only after the person charged with the violation has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.145. Payment of Penalty; Refund

(a) On the issuance of notice or an order charging that a violation has occurred, the commission shall inform the person charged within 30 days of the proposed amount of the penalty.

(b) Within the 30-day period immediately following the day on which the notice or order is issued, the person charged with the penalty shall pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the commission for placement in an escrow account.

(c) If through administrative or judicial review of the proposed penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.

(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

§ 116.146. Recovery of Penalty

Civil penalties owed under Sections 116.143 through 116.145 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

[Acts 1983, 68th Leg., p. 487, ch. 99, § 1, eff. Sept. 1, 1983.]

CHAPTER 117. HAZARDOUS LIQUID PIPELINE TRANSPORTATION INDUSTRY

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SUBCHAPTER A. GENERAL PROVISIONS

§ 117.001. Definitions

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Hazardous liquid" means:

(A) petroleum or any petroleum product; and

(B) any substance or material which is in liquid state, excluding liquefied natural gas, when transported by pipeline facilities and which has been determined by the United States secretary of transportation to pose an unreasonable risk to life or property when transported by pipeline facilities.

(3) "Transportation of hazardous liquids" means the movement of hazardous liquids by pipeline, or their storage incidental to movement, except that it does not include any such movement through gathering lines in rural locations or production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of those facilities.

(4) "Pipeline facilities" includes new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids.

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

[Sections 117.002 to 117.010 reserved for expansion]

SUBCHAPTER B. JURISDICTION, POWERS, AND DUTIES

§ 117.011. Jurisdiction

The commission has jurisdiction over all pipeline transportation of hazardous liquids and over all hazardous liquid pipeline facilities as provided in the Hazardous Liquid Pipeline Safety Act of 1979 (Pub. L.No. 96-129).¹

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

¹ 49 U.S.C.A. § 2001 et seq.

§ 117.012. Rules and Standards

(a) The commission shall adopt rules that include safety standards for and practices applicable to the

intrastate transportation of hazardous liquids by pipeline and intrastate hazardous liquid pipeline facilities.

(b) Rules that adopt safety standards do not apply to movement of hazardous liquids through gathering lines in rural locations or production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of those facilities.

(c) The safety standards adopted by the commission in its rules must be compatible with those standards established by the United States secretary of transportation under the Hazardous Liquid Pipeline Safety Act of 1979 (Pub.L.No. 96-129).¹

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

¹ 49 U.S.C.A. § 2001 et seq.

§ 117.013. Records and Reports

(a) Each owner or operator of a pipeline engaged in the transportation of hazardous liquids within this state shall maintain records, make reports, and provide any information the commission may require under the jurisdiction granted by the Hazardous Liquid Pipeline Safety Act of 1979 (Pub.L.No. 96-129)¹ and this chapter.

(b) The commission, by rule, shall designate the records that are required to be maintained and the reports that are to be filed by the owner or operator and shall provide forms for reports if necessary.

(c) The commission may require the owners or operators of hazardous liquid pipeline facilities to prepare and make available for inspection by its employees or agents or file for approval a procedural manual for each such facility in accordance with the requirements of Title 49, Part 195.402, Code of Federal Regulations.

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

¹ 49 U.S.C.A. § 2001 et seq.

§ 117.014. Inspection and Examination of Records and Property

(a) The commission and its employees and designated agents may enter property on which is located pipeline facilities or any other property relating to the transportation of hazardous liquids by pipeline and may inspect and examine the records and property to the extent relevant to determine if a person is acting in compliance with this chapter and rules adopted by the commission under this chapter.

(b) Before the commission or its employees or designated agents enter property for the purposes of this section, the person requesting entry must present proper credentials to the person in charge at the property.

(c) Entry, examination, and inspection under this section may be made only at reasonable times and in a reasonable manner.

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

§ 117.015. Compliance With Federal Law

The commission shall make reports and certifications to the United States Department of Transportation and shall take any other actions necessary to comply with the Hazardous Liquid Pipeline Safety Act of 1979 (Pub.L.No. 96-129).¹

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

¹ 49 U.S.C.A. § 2001 et seq.

[Sections 117.016 to 117.050 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT

§ 117.051. Civil Penalty

A person who violates this chapter or a rule adopted by the commission under this chapter is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, provided that the maximum civil penalty that may be assessed for any related series of violations may not exceed \$200,000.

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

§ 117.052. Enforcement by Commission and Attorney General

(a) If it appears that a rule of the commission has been or is being violated, the commission may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or for the assessment and recovery of a civil penalty under Section 117.051 of this code, or for both the injunctive relief and the civil penalty.

(b) On application for injunctive relief and a finding that a person has violated or is violating this chapter or a rule of the commission adopted under this chapter, the district court shall grant the injunctive relief the facts so warrant.

(c) At the request of the commission, the attorney general shall institute and conduct a suit in the name of the state for injunctive relief to recover the civil penalty, or for both injunctive relief and the civil penalty.

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

§ 117.053. Criminal Penalty for Violation of Chapter and Rules

(a) A person who intentionally violates this chapter or a rule adopted under this chapter commits an offense.

(b) An offense under this section is punishable by a fine of not more than \$25,000, confinement in the Texas Department of Corrections for a term of not more than five years, or both such fine and imprisonment.

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

§ 117.054. Criminal Penalty for Injuring or Destroying Pipeline Facilities

(a) A person who intentionally injures or destroys or attempts to injure or destroy any pipeline facility in this state commits an offense.

(b) An offense under this section is punishable by a fine of not more than \$25,000, confinement in the Texas Department of Corrections for a term of not more than 15 years, or both such fine and imprisonment.

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

[Sections 117.055 to 117.100 reserved for expansion]

SUBCHAPTER D. MISCELLANEOUS PROVISIONS

§ 117.101. Limitations on Powers of Cities

(a) This chapter may not be construed to reduce, limit, or impair the authority provided by law to any city.

(b) Except as provided by Subsection (c) of this section, a city may not adopt or enforce an ordinance that establishes safety standards or practices applicable to the pipeline transportation of hazardous liquids or hazardous liquid pipeline facilities that are subject to regulation by federal or state law.

(c) A city may adopt ordinances that establish conditions for installing or relocating pipelines over, under, along, or across public streets and alleys within the boundaries of the city.

[Acts 1983, 68th Leg., p. 4914, ch. 873, § 1, eff. Aug. 29, 1983.]

TITLE 4. MINES AND MINING

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SUBCHAPTER A. GENERAL PROVISIONS

§ 131.001. Short Title

This chapter may be cited as the Texas Uranium Surface Mining and Reclamation Act.

[Acts 1977, 65th Leg., p. 2607, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 305, ch. 141, § 39, eff. May 9, 1979; Acts 1979, 66th Leg., p. 849, ch. 379, § 1, eff. June 6, 1979.]

§ 131.002. Declaration of Policy

The legislature finds and declares that:

(1) the extraction of minerals by surface mining operations is a basic and essential activity making an important contribution to the economic well-being of the state and nation;

(2) proper reclamation of surface-mined land is necessary to prevent undesirable land and water conditions that would be detrimental to the general welfare, health, safety, and property rights of the citizens of this state;

(3) surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications for reclamation operations must vary accordingly;

(4) it is not always possible to extract minerals required by our society without disturbing the surface of the earth and producing waste materials, and the very character of certain types of surface mining operations occasionally precludes complete restoration of the affected land to its original condition;

(5) unregulated surface mining may destroy or diminish the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property, by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources, which results are declared to be inimical to the public interest and destructive to the public health, safety, welfare, and economy of the State of Texas;

(6) due to its unique character or location, some land within the state may be unsuitable for all or certain types of surface mining operations;

(7) reclamation of surface-mined land as provided by this chapter will allow the mining of valuable minerals in a manner designed for the protection and subsequent beneficial use of land; and

(8) the requirements of this chapter for reclamation and maintenance of affected land are necessary for the public health and safety and thus constitute a valid application of the police power of this state.

[Acts 1977, 65th Leg., p. 2607, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 849, ch. 379, § 1, eff. June 6, 1979.]

§ 131.003. Purposes

It is declared to be the purpose of this chapter:

(1) to prevent the adverse effects to society and the environment resulting from unregulated surface mining operations as defined in this chapter;

(2) to assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances to the land are protected from unregulated surface mining operations;

(3) to assure that surface mining operations are not conducted where reclamation as required by this chapter is not possible;

(4) to assure that surface mining operations are conducted in a manner that will prevent unreasonable degradation of land and water resources; and

(5) to assure that reclamation of all surface-mined land is accomplished as contemporaneously as practicable with the surface mining, recognizing that the extraction of minerals by responsible mining operations is an essential and beneficial economic activity.

[Acts 1977, 65th Leg., p. 2608, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.004. Definitions

In this chapter:

(1) "Minerals" means uranium and uranium ore.

(2) "Surface mining" means the mining of minerals by removing the overburden lying above the natural deposit of minerals and mining directly from the natural deposits that are exposed and those aspects of underground mining having significant effects on the surface; provided, this definition shall not be construed to include in situ mining activities associated with the removal of uranium or uranium ore.

(3) "Exploration activity" means the disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of a mineral deposit.

(4) "Affected land" or "land affected" means:

(A) the area from which any materials are to be or have been displaced in a surface mining operation;

(B) the area on which any materials that are displaced are to be or have been deposited;

(C) the haul roads and impoundment basins within the surface mining area; and

(D) other land whose natural state has been or will be disturbed as a result of the surface mining operations.

(5) "Surface mining operation" means those activities conducted at or near the mining site and concomitant with the surface mining, including extraction, storage, processing, and shipping of minerals and reclamation of the land affected.

(6) "Operator" means the individual or entity, including any public or governmental agency, that is to engage or that is engaged in a surface

mining operation, including any individual or entity whose permit has expired or been suspended or revoked.

(7) "Overburden" means all materials displaced in a mining operation which are not, or will not be, removed from the affected area.

(8) "Reclamation" means the process of restoring an area affected by a surface mining operation to its original or other substantially beneficial condition, considering past and possible future uses of the area and the surrounding topography.

(9) "Topsoil" means the unconsolidated mineral matter naturally present on the surface of the earth which has been subjected to and influenced by genetic and environmental factors of parent material, climate, macroorganisms and microorganisms, and topography, all acting over a period of time, and which is necessary for the growth and regeneration of vegetation on the surface of the earth.

(10) "Surface mining permit" means the written certification by the commission that the named operator may conduct the surface mining operations described in the certification during the term of the surface mining permit and in the manner established in the certification.

(11) "Person affected" means any person who is a resident of a county or any county adjacent or contiguous to the county in which a mining operation is or is proposed to be located, including any person who is doing business or owns land in the county or adjacent or contiguous county and any local government and who demonstrates that he has suffered or will suffer actual injury or economic damage.

(12) "Commission" means the Railroad Commission of Texas.

(13) "Fund" means the Land Reclamation Fund.

(14) "Toxic material" means any substance present in sufficient concentration or amount to cause injury or illness to plant, animal, or human life.

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the surface-mined area so that it resembles the surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated, although the new contour may subsequently be at a moderately lower or higher elevation than existed prior to the surface mining operation.

(16) "Person" means an individual, partnership, society, jointstock company, firm, company, corporation, business organization, governmental agency, or any organization or association of citizens.

(17) "Party to the administrative proceedings" means any person who has participated in a public

hearing or filed a valid petition or timely objection pursuant to any provision of this chapter.

(18) "Permit area" means all the area designated as such in the permit application and shall include all land affected by the surface mining operations during the term of the permit and may include any contiguous area that the operator proposes to surface mine after that time.

[Acts 1977, 65th Leg., p. 2608, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 308, ch. 141, § 42, eff. May 9, 1979; Acts 1979, 66th Leg., p. 853, ch. 379, § 3, eff. June 6, 1979; Acts 1979, 66th Leg., p. 1989, ch. 784, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 413, ch. 171, § 1, eff. May 20, 1981.]

Acts 1977, 65th Leg., p. 1320, ch. 524, § 1, purported to amend subds. (2) and (5) of § 4 of Civil Statutes, art. 5920-10 [now, subds. (2) and (5) of this section], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(5). Said amendment was subsequently repealed by identical provisions of Acts 1979, 66th Leg., p. 308, ch. 141, § 43, and Acts 1979, 66th Leg., p. 854, ch. 379, § 7, which provided in part that the repeal does not affect the continued validity of subds. (2) and (5) of this section or amendments to them made by the 66th Legislature, Regular Session, 1979.

§ 131.005. Reclamation

(a) The basic objective of reclamation is to reestablish on a continuing basis, where required, vegetation and other natural conditions consistent with the anticipated subsequent use of the affected land.

(b) The process of reclamation may require contouring, terracing, grading, backfilling, resoiling, revegetation, compaction and stabilization and settling ponds, water impoundments, diversion ditches, and other water treatment facilities in order to minimize water diminution to existing water sources, pollution, soil and wind erosion, or flooding resulting from mining or any other activity that may be considered necessary to accomplish the reclamation of the land affected to a substantially beneficial condition.

[Acts 1977, 65th Leg., p. 2610, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.006. Exclusions and Exemptions

The provisions of this chapter do not apply to the following:

(1) surface mining operations conducted on public land regulated by the General Land Office if the land is reclaimed in a manner consistent with this chapter; and

(2) land on which the overburden has been removed and minerals have been produced before June 21, 1975.

[Acts 1977, 65th Leg., p. 2610, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Acts 1977, 65th Leg., p. 1323, ch. 524, § 7, purported to amend § 5 of Civil Statutes, art. 5920-10 [now, this section], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(5). Said amendment was subsequently repealed by identical provisions of Acts 1979, 66th Leg., p. 308, ch. 141, § 43, and Acts 1979, 66th Leg., p. 854, ch. 379, § 7, which provided in part that the repeal does not affect the continued validity of this section or amendments thereto made by the 66th Legislature, Regular Session, 1979.

[Sections 131.007 to 131.020 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF THE COMMISSION

§ 131.021. General Authority of Commission

In seeking to accomplish the purposes of this chapter, the commission shall have the authority:

(1) to adopt and amend rules pertaining to surface mining and reclamation operations consistent with the general intent and purposes of this chapter;

(2) to issue permits pursuant to the provisions of this chapter;

(3) to conduct hearings pursuant to the provisions of this chapter;

(4) to issue orders requiring an operator to take actions that are necessary to comply with this chapter and with rules adopted under this chapter;

(5) to issue orders modifying previous orders;

(6) to issue a final order revoking the permit of an operator who has failed to comply with an order of the commission to take action required by this chapter or rules adopted under this chapter;

(7) to order the immediate cessation of an ongoing surface mining operation if the commission finds that the operation creates an imminent danger to the health or safety of the public, or is causing or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, and to take other action or make changes in a permit that are reasonably necessary to avoid or alleviate these conditions;

(8) to hire employees, adopt standards for employment of these persons, and hire and authorize

the hiring of outside contractors to assist in carrying out the requirements of this chapter;

(9) to enter on and inspect, in person or by its agents, a surface mining operation that is subject to the provisions of this chapter to assure compliance with the terms of this chapter;

(10) to conduct, encourage, request, and participate in studies, surveys, investigations, research, experiments, training, and demonstrations by contract, grant, or otherwise;

(11) to prepare and require permittees to prepare reports;

(12) to collect and disseminate to the public information considered reasonable and necessary for the proper enforcement of this chapter;

(13) to accept, receive, and administer grants, gifts, loans, or other funds made available from any source for the purposes of this chapter;

(14) to enter into contracts with state boards and agencies that have pertinent expertise to obtain professional and technical services necessary to carry out the provisions of this chapter; and

(15) to perform other duties and acts required by and provided for in this chapter.

[Acts 1977, 65th Leg., p. 2610, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.022. Jurisdiction of Commission

The commission is the mining and reclamation authority for the State of Texas and has exclusive jurisdiction for establishing reclamation requirements for mining operations in this state.

[Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.023. Commission Procedure

The commission shall seek the accomplishment of the purposes of this chapter by all practicable methods.

[Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.024. Compliance With Federal Surface Mining Laws

(a) On passage of federal surface mining legislation, the commission shall take actions necessary to establish the exclusive jurisdiction of this state over the regulation of surface mining and reclamation operations.

(b) If the federal administrative agency disapproves the regulatory program of this state as submitted, the commission shall take all necessary and appropriate action, including making recommendations for remedial legislation, to clarify, alter, or amend the program to comply with the requirements of the federal act.

[Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.025. Hearing Procedure

At a hearing under this chapter, the commission may:

- (1) administer oaths or affirmations;
- (2) subpoena witnesses and compel their attendance;
- (3) take evidence; and
- (4) require production of books, papers, correspondence, memoranda, agreements, or other documents or records that are considered relevant or material to the administration of this chapter.

[Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§§ 131.026 to 131.032. Repealed by Acts 1979, 66th Leg., p. 1991, ch. 784, § 5, eff. Aug. 27, 1979

§ 131.033. Differing Terms and Provisions of Rules

A rule or an amendment of a rule adopted by the commission may differ in its terms and provisions between particular conditions, particular mining techniques, particular areas of the state, or any other conditions that appear relevant and necessary so long as the action taken is consistent with attainment of the general intent and purposes of this chapter.

[Acts 1977, 65th Leg., p. 2612, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 305, ch. 141, § 39, eff. May 9, 1979; Acts 1979, 66th Leg., p. 849, ch. 379, § 1, eff. June 6, 1979.]

§ 131.034. Exploration Activities

The commission shall promulgate rules in the manner provided in Sections 131.026 through 131.031 of this code for the conduct of exploration activities.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.035. Rules Designating Unsuitable Land

(a) The commission shall develop rules that adopt appropriate procedures for identifying and designating land in this state as unsuitable for all or certain types of surface mining in accordance with Sections 131.036 through 131.041 of this code.

(b) The rules shall be in sufficient detail to provide reasonable notice to prospective operators of areas that might be designated as unsuitable for surface mining.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.036. Survey of Land

(a) When application is made to conduct surface mining operations and before a permit is issued, the commission shall immediately have the areas to be

included in the proposed permit surveyed in accordance with the requirements of Sections 131.035 and 131.037 through 131.041 of this code.

(b) In conducting the survey and in declaring various areas to be unsuitable for mining, the commission shall employ competent and scientifically sound data and information as the basis for objective decisions with respect to each area surveyed.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.037. Commission Statement

Before designating a land area as unsuitable for surface mining operations, the commission shall prepare a detailed statement on the potential mineral and other resources in the area, the demand for these resources, and the impact of the designation on the environment, the economy, and the supply of the mineral.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.038. Reasons for Unsuitable Designation

After the survey is made, an area may be designated unsuitable for all or certain types of surface mining if:

(1) the commission determines that reclamation under this chapter is not feasible;

(2) the operations will result in significant damage to important areas of historic, cultural, or archaeological value or to important natural systems;

(3) the operations will affect renewable resource land that includes aquifers and aquifer recharge areas, resulting in a substantial loss or reduction of long-range productivity of water supply or food or fiber products;

(4) the operations are located in an area subject to frequent flooding or an area that is geologically unstable and may reasonably be expected to endanger life and property;

(5) the operations will adversely affect any national park, national monument, national historic landmark, property listed on the national register of historic places, national forest, national wilderness area, national wildlife refuge, national wild and scenic river area, state park, state wildlife refuge, state forest, recorded Texas historic landmark, state historic site, state archaeological landmark, or city or county park; or

(6) the operations would endanger any public road, public building, cemetery, school, church, or similar structure or existing dwelling outside the permit area.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.039. Petition and Hearing on Designation

(a) Any person is entitled to petition the commission to have an area designated as unsuitable for surface mining operations or to have the designation terminated.

(b) The petition shall include allegations of facts with supporting evidence that in the opinion of the commission would tend to establish the allegations.

(c) The commission shall make a determination of the validity of the petition, and if the petition is found to be valid, it shall be kept on file by the commission and made available for public inspection.

(d) On application for a surface mining permit for which a valid petition has been filed, the commission shall hold a public hearing as provided in Section 131.163 of this code in the locality of the proposed mining operation.

(e) Any person affected may intervene before the public hearing by filing allegations of facts with supporting evidence that would tend to establish the allegations.

(f) If all the petitioners and the applicant stipulate agreement before the requested hearing, the hearing does not have to be held.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, § 2, eff. Aug. 27, 1979.]

§ 131.040. Modifying, Amending, and Terminating Designations

The commission may modify, amend, or terminate a designation pursuant to the requirements of Sections 131.035 through 131.039 of this code.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.041. Applicability of Subchapter

The provisions of Sections 131.035 through 131.040 of this code do not apply to land on which surface mining operations were being conducted on June 21, 1975.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.042. Records, Reports, Monitoring Equipment, and Information

The commission shall require each permittee to:

(1) establish and maintain appropriate records;

(2) make reports as frequently as the commission may prescribe;

(3) install, use, and maintain necessary monitoring equipment for observing and determining relevant surface or subsurface effects of the mining operation and reclamation program; and

(4) provide other information relative to mining and reclamation operations the commission determines to be reasonable and necessary.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.043. Inspection by Commission

Without advance notice and on presentation of appropriate credentials to the operation supervisor, if present, the authorized representatives of the commission are entitled to enter in, on, or through a surface mining operation or premises in which any records required under Section 131.042 of this code are located, and may at reasonable times and without delay have access to and copy any records and inspect monitoring equipment or methods of operation required under this chapter.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.044. Time and Procedures for Inspections

(a) The inspections by the commission shall occur on an irregular basis at a frequency necessary to insure compliance with the intent and purposes of this chapter and the commission's rules for the surface mining and reclamation operations covered by each permit.

(b) The inspections shall occur only during normal operating hours if practicable and without prior notice to the permittee or his agents or employees.

(c) An inspection shall include the filing of an inspection report adequate to enforce the requirements of and to carry out the terms and purposes of this chapter. The commission shall make each report a part of the record and furnish one copy of the report to the operator.

(d) Insofar as practicable, the commission shall establish a system of rotation of inspectors.

[Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.045. Sign

Each permittee shall maintain at the entrances to the surface mining and reclamation operations a clearly visible sign that sets forth the name, business address, and phone number of the permittee and the permit number of the surface mining and reclamation operations.

[Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.046. Procedure on Detection of Violation

On detection of each violation of a requirement of this chapter, each inspector shall inform the operator of the violation orally at the time of the detec-

tion and in writing at a later time and shall report the violation in writing to the commission.

[Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.047. Judicial Review

(a) Any party to the administrative proceedings whose interest is or may be adversely affected by a ruling, order, decision, or other act of the commission may appeal by filing a petition in a district court of Travis County or in the county in which the greater portion of the land in question is located.

(b) The plaintiff shall pursue his action with reasonable diligence, and if the plaintiff does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff, after receiving due notice, can show good and sufficient cause for the delay.

(c) The court shall hear the complaint solely on the record made before the commission. The findings of the commission, if supported by substantial evidence on the record considered as a whole, shall be upheld.

(d) The court may, under conditions it may prescribe, grant temporary relief that it considers appropriate pending final determination of the proceedings.

(e) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order, or decision of the commission.

(f) Repealed by Acts 1981, 67th Leg., p. 2647, ch. 707, § 4(48), eff. Aug. 31, 1981.

[Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, § 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2646, ch. 707, § 4, eff. Aug. 31, 1981.]

§ 131.048. Confidentiality

Information submitted to the commission concerning mineral deposits, test borings, core samplings, or trade secrets or privileged commercial or financial information relating to the competitive rights of the applicant and specifically identified as confidential by the applicant, if not essential for public review as determined by the commission, shall not be disclosed by any member, agent, or employee of the commission.

[Acts 1977, 65th Leg., p. 2616, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.049. Temporary Orders Prior to Notice and Hearing

(a) The commission may issue temporary orders relating to a surface mining operation without no-

tice and hearing, or with the notice and hearing as the commission considers practical under the circumstances, when necessary to enable action to be taken more expeditiously than is otherwise provided by this chapter to effectuate the policy and purposes of this chapter.

(b) If the commission issues a temporary order under this authority without a hearing, and if the subject matter of the order is such as to require a public hearing under Section 131.163 of this code or under any rule of the commission, the order shall set a time and place for a public hearing to be held. The hearing shall be held as soon after the temporary order is issued as is practical.

(c) At the hearing, the commission shall affirm, modify, or set aside the temporary order. If the nature of the commission's action requires, further proceedings shall be conducted as appropriate under provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) The requirements of Sections 131.159 and 131.160 of this code relating to the time for notice, newspaper notice, and method of giving a person notice do not apply to the hearing, but general notice of the hearing shall be given that the commission considers practical under the circumstances. [Acts 1979, 66th Leg., p. 853, ch. 379, § 6, eff. June 6, 1979.]

[Sections 131.050 to 131.100 reserved for expansion]

SUBCHAPTER C. PLANS AND STANDARDS

§ 131.101. Reclamation Plan

(a) A reclamation plan shall be developed in a manner consistent with local, physical, environmental, and climatological conditions and current mining and reclamation technologies.

(b) A reclamation plan submitted as part of a permit application shall include:

(1) the identification of the entire area to be mined and affected over the estimated life of the mining operation;

(2) the condition of the land to be covered by the permit prior to any mining, including:

(A) the uses existing at the time of the application, and if the land has a history of previous mining, the uses, if reasonably ascertainable, that immediately preceded any mining; and

(B) the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover;

(3) the capacity of the land to support its anticipated use following reclamation, including a discussion of the capacity of the reclaimed land to support alternative uses;

(4) a description of how the proposed postmining land condition is to be achieved and the necessary support activities that may be needed to achieve the condition, including an estimate of the cost per acre of the reclamation;

(5) the steps taken to comply with applicable air and water quality and water rights laws and regulations and any applicable health and safety standards, including copies of any pertinent permit applications;

(6) a general timetable that the operator estimates will be necessary for accomplishing the major events included in the reclamation plan; and

(7) other information the commission, by rule, determines to be reasonably necessary to effectuate the purposes of this chapter.

(c) The operator may revise or amend the reclamation plan at any time in accordance with the requirements of this code.

[Acts 1977, 65th Leg., p. 2616, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.102. Reclamation Standards

(a) A permit issued under this chapter to conduct surface mining operations shall require that the surface mining operations meet all applicable reclamation standards of this chapter and any other requirements that the commission establishes by rule.

(b) Reclamation standards shall apply to all surface mining and reclamation operations that are not exempted or excluded and shall require the operator as a minimum to:

(1) conduct surface mining operations in a manner consistent with prudent mining practice, so as to maximize the utilization and conservation of the resource being recovered so that re-affecting the land in the future through surface mining can be minimized;

(2) restore the land affected to the same or a substantially beneficial condition considering the present and past uses of the land, so long as the condition does not present any actual or probable hazard to public health or safety or pose an actual or probable threat of water diminution or pollution, and the permit applicants' declared anticipated land use following reclamation is not considered to be impractical or unreasonable, to involve unreasonable delay in implementation, or to violate federal, state, or local law, provided that a variety of postmining land conditions that differ from the land condition immediately preceding the surface mining operation, including but not limited to stock ponds, fishing or recreational lakes, school or park sites, industrial, commercial, or residential sites, or open space uses, may be approved by the commission if the proposed condi-

tion is determined to be substantially beneficial and complies with the provisions of this section;

(3) reduce all highwalls, spoil piles, and banks to a degree to control erosion effectively and sufficiently to sustain vegetation, where required, consistent with the anticipated subsequent use of the affected land, provided that backfilling, compacting, and grading shall be required to restore the approximate original contour where required by federal law and where the volume of overburden is large in comparison to the volume of mineral deposit and the commission considers the requirement to be practical;

(4) stabilize and protect all surface areas affected by the mining and reclamation operation effectively to control erosion and attendant air and water pollution;

(5) remove the topsoil, if any, from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plants or other means so that the topsoil is preserved from wind and water erosion, remains free of any contamination by toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation and if other strata can be shown to be as suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner the other strata which is best able to support vegetation, provided that the requirements of this provision shall not apply if a mixing of strata can be shown to be equally suitable for revegetation requirements;

(6) replace the topsoil or the best available subsoil, if any, on top of the land to be reclaimed;

(7) fill any auger holes with an impervious material in order to prevent drainage;

(8) minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and groundwater systems both during and after surface mining operations and during reclamation by:

(A) avoiding toxic mine drainage by such measures as:

(i) preventing or removing water from contact with toxic-producing deposits,

(ii) treating drainage to reduce toxic content,

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep toxic drainage from entering ground and surface water;

(B) conducting surface mining operations in a manner to prevent unreasonable additional con-

tributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonal flow conditions;

(C) removing temporary or large siltation structures from drainways consistent with good water conservation practices after disturbed areas are revegetated and stabilized; or

(D) other actions as the commission may prescribe pursuant to its rules;

(9) stabilize any waste piles;

(10) refrain from surface mining in proximity to active and abandoned underground mines in which mining would cause breakthroughs or would endanger the health or safety of miners;

(11) incorporate with respect to the use of impoundments for the disposal of mine wastes, processing wastes, or other liquid or solid wastes current engineering practices for the design and construction of water retention facilities which, at a minimum, shall be compatible with the requirements of Section 6.0731,¹ Water Code, and applicable federal laws, ensure that leachate will not pollute surface or groundwater, and locate impoundments so as not to endanger public health and safety should failure occur;

(12) ensure that all debris, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface water or combustion;

(13) ensure that any explosives are used only in accordance with existing state and federal law and rules promulgated by the commission;

(14) ensure that all reclamation efforts proceed as contemporaneously as practicable with the surface mining operations;

(15) ensure that construction, maintenance, and postmining conditions of access roads into and across the site of operations will minimize erosion and siltation, pollution of air and water, damage to fish or wildlife or their habitat, or public or private property, provided that the commission may permit the retention after mining of certain access roads if compatible with the approved reclamation plan;

(16) refrain from the construction of roads or other access ways up a streambed or drainage channel or in proximity to such channel where such construction would seriously alter the normal flow of water;

(17) establish on all affected land, where required in the approved reclamation plan, a diverse vegetative cover native to the affected land where vegetation existed prior to mining and capable of self-regeneration and plant succession equal in extent of cover to the natural vegetation of the area, except that introduced species may be used in the revegetation process where desirable or necessary to achieve the approved reclamation plan;

(18) assume responsibility for successful re-vegetation for a period of four years beyond the first year in which the vegetation has been successfully established as evidenced by the land being used as anticipated in the reclamation plan;

(19) ensure with respect to permanent impoundments of water as part of the approved reclamation plan that:

(A) the size of the impoundment and the availability of water are adequate for its intended purpose;

(B) the impoundment dam construction will meet the requirements of Section 6.0731, Water Code, and applicable federal laws;

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and the discharges from the impoundment will not degrade the water quality in the receiving stream;

(D) final grading will provide adequate safety and access for anticipated water users; and

(E) the water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses; and

(20) meet other criteria pursuant to the commission's rules as are necessary to achieve reclamation in accordance with the purposes of this chapter, taking into consideration the physical, climatological, and other characteristics of the site.

(c) The purpose of this section is to have land affected restored to the same condition as the land that existed enjoyed before the mining or some substantially beneficial condition.

(d) A method of reclamation other than that provided in this section may be approved by the commission after public hearing if the commission determines that any method of reclamation required by this section is not practical and that the alternative method will provide for the affected land to be restored to a substantially beneficial condition.

(e) If an alternative method of reclamation is generally applicable to all surface mining operations involving a particular mineral, the commission shall promulgate rules in the manner provided in Section 131.033 of this code.

(f) The operator is entitled to access to the land affected to the extent necessary to carry out the reclamation and maintenance required under this chapter.

[Acts 1977, 65th Leg., p. 2616, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 305, ch. 141, § 40, eff. May 9, 1979; Acts 1979, 66th Leg., p. 850, ch. 379, § 2, eff. June 6, 1979.]

¹ See, now, § 12.052.

[Sections 131.103 to 131.130 reserved for expansion]

SUBCHAPTER D. SURFACE MINING PERMITS

§ 131.131. Permit Required for Operation

(a) No person shall conduct a surface mining operation unless he first obtains a surface mining permit issued by the commission under this subchapter; provided, any operator conducting a surface mining operation in this state before September 20, 1976, who has filed a permit application pursuant to this chapter, may continue to conduct that surface mining operation until the commission approves or denies his application.

(b) An operator who was conducting a surface mining operation in this state after the expiration of 180 days following the promulgation of the initial rules under Section 131.026 of this code and who has filed a permit application in accordance with the provisions of this subchapter may continue to conduct the surface mining operation until the commission approves or denies his application.

[Acts 1977, 65th Leg., p. 2619, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1990, ch. 784, § 3, eff. Aug. 27, 1979.]

Amendment by Acts 1977, 65th Leg., p. 1321, ch. 524, § 3

Acts 1977, 65th Leg., p. 1321, ch. 524, § 3, purports to amend subsec. (a) of § 8 of Civil Statutes, art. 5920-10 [now, this section], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(5). As so amended, subsec. (a) reads:

"No person shall conduct any surface mining operation without having first obtained a surface mining permit issued by the commission pursuant to this Act; provided, however, that any operator conducting a surface mining operation in this state before September 20, 1976, who has filed a permit application in accordance with the provisions of this Act may continue to conduct such surface mining operation until such time as the commission approves or denies his application."

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

§ 131.132. Form of Permit Application

On application to the commission for a surface mining permit, an operator shall submit three copies of a permit application on a form prescribed by the commission, and the commission shall require in the form the information it considers reasonably necessary to process the application and to ensure compliance with the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.133. Required Information

The permit application shall include information concerning:

(1) the name, address, ownership, and management officers of the permit applicant and affiliated persons engaged in surface mining;

(2) legal and equitable interests of record, if reasonably ascertainable, in the surface and mineral estates of the permit area and in the surface estate of land located within 500 feet of the permit area, provided that the mineral estate includes only minerals as defined in this chapter;

(3) persons residing on the property at the time of the application;

(4) current or previous surface mining permits held by the applicant, including any revocations, suspensions, or bond forfeitures;

(5) the type and method of surface mining operation, the engineering techniques, and the equipment that is proposed to be used, including mining schedules, the nature and expected amount of overburden to be removed, the depth of excavations, a description of the affected land and permit area, the results of any test borings, test pits, or core samplings that have been gathered from the permit area, and the anticipated hydrologic consequences of the mining operation;

(6) the applicant's legal right to surface mine the affected land; and

(7) other pertinent matters that the commission considers reasonably necessary to effectuate the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.134. Documents to be Included With Application

An applicant shall include with his permit application a copy of a reclamation plan prepared as provided in Section 131.101 of this code and a copy of the notice published in compliance with the requirement of Section 131.159 of this code.

[Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.135. Application Fees

(a) Each application for a surface mining permit shall be accompanied by an initial application fee as determined by the commission in accordance with a published fee schedule.

(b) An initial application fee shall be based as nearly as possible on the actual or anticipated cost of reviewing the application, but shall not exceed \$400.

(c) After approval but before issuance of the surface mining permit, the applicant shall pay an approved application fee in the amount of \$10 per acre of the permit area, which may be paid in annual installments apportioned over the term of the permit.

[Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1991, ch. 784, § 4, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 358, ch. 81, § 2(b), eff. Sept. 1, 1983.]

Section 2(c) of the 1983 amendatory act provides:

"This section applies only to applications filed on or after September 1, 1983."

§ 131.136. Amendment to Permit Application

A permit application may be amended to exclude the part of an operation that lies within an area designated as unsuitable for surface mining under Sections 131.035 through 131.041 of this code.

[Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.137. Combined Permit Application

(a) The commission shall adopt rules permitting an operator of more than one noncontiguous surface mining operation to submit a single application for a combined surface mining permit covering all his mining operations.

(b) A combined permit application shall require the same detailing of information as required by this subchapter for each separate location.

(c) An operator desiring to operate under a combined permit may submit a consolidated reclamation plan covering all his operations under rules prescribed by the commission, but he may be required to furnish specific information relating to reclamation of a single operating area if the commission determines that this is necessary to carry out the purposes of this chapter.

(d) Except as provided in this section, each surface mining operation submitted as part of a combined permit application shall be separate and independent of all other surface mining operations included in the same permit application.

(e) The commission may approve or deny an individual surface mining operation and the reclamation plan that relates to an individual surface mining

operation without affecting other portions of the same permit application.

[Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.138. Filing Application With County Clerk

After deleting confidential information as provided in Section 131.048 of this code, the commission shall file for public inspection with the county clerk at the county courthouse of the county in which any portion of the mining is proposed to occur a copy of each application.

[Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.139. Submission of Application to Agencies for Comment

(a) The commission immediately shall submit copies of the permit application to the Parks and Wildlife Department, Texas Water Quality Board, Texas Water Development Board, General Land Office, Texas Air Control Board, Texas Historical Commission, Texas Water Rights Commission, State Soil and Water Conservation Board, Bureau of Economic Geology, Texas Department of Health Resources, and other state agencies whose jurisdiction the commission feels the particular mining operation may affect.

(b) Each of these agencies shall review the permit application and submit any comments the agency cares to make within 30 days of receipt of the application.

(c) An agency's comments shall include an enumeration of permits or licenses required under the agency's jurisdiction.

(d) The comments of each agency shall be made a part of the record and a copy shall be furnished to the applicant.

[Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.140. Approval of Permit

(a) The commission shall grant a surface mining permit if it is established that the permit application complies with the requirements of this chapter and applicable federal and state laws.

(b) The commission may approve a surface mining permit conditioned on the approval of other state permits or licenses that may be required.

[Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.141. Denial of a Permit

The commission shall deny a permit if:

(1) it finds that the reclamation as required by this chapter cannot be accomplished by means of the proposed reclamation plan;

(2) part of the proposed operation lies within an area designated as unsuitable for surface mining in Sections 131.035 through 131.041 of this code;

(3) it is advised by the Texas Water Quality Board that the proposed mining operation will cause pollution of water of the state, or by the Texas Air Control Board that the proposed mining operation will cause pollution of the ambient air of the state, in violation of the laws of this state;

(4) the applicant has had another permit issued under this chapter revoked or any bond posted to comply with this chapter forfeited and the conditions causing the permit to be revoked or the bond to be forfeited have not been corrected to the satisfaction of the commission;

(5) it determines that the proposed operation will endanger the health and safety of the public;

(6) the surface mining operation will adversely affect a public highway or road; or

(7) the operator is unable to produce the bonds or otherwise meet the requirements of Sections 131.201 through 131.206 of this code.

[Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, § 2, eff. Aug. 27, 1979.]

§ 131.142. Term and Transferability of Permit

(a) A surface mining permit issued under this chapter for uranium and uranium ore shall be issued for a term of not more than 10 years.

(b) Except as provided in Sections 131.155 through 131.158 of this code, a surface mining permit is nontransferable.

[Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 308, ch. 141, § 41, eff. May 9, 1979; Acts 1979, 66th Leg., p. 853, ch. 379, § 4, eff. June 6, 1979.]

§ 131.143. Liability Insurance Policy

(a) After a permit application is approved but before the permit is issued, the applicant shall file a certificate of insurance certifying that the applicant has in force a public liability insurance policy issued by an insurance company authorized to conduct business in this state.

(b) The liability insurance policy required by Subsection (a) of this section shall cover all surface mining operations of the applicant in this state and shall afford bodily injury protection and accidental business property damage protection in an amount determined by the commission to compensate adequately any persons damaged as a result of surface mining and reclamation operations.

(c) The liability insurance policy shall be maintained in full force and effect during the term of the

permit or the renewal of the permit, including the length of all reclamation operations.

[Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.144. Rules for Revision, Transfer, and Renewal of Permits

The commission shall promulgate rules for renewal, revision, and transfer of surface mining permits.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.145. Right to Renewal

A valid surface mining permit issued under this chapter carries with it the right of successive renewal on expiration with respect to area within the boundaries of the existing permit.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.146. Application for and Issuance of Renewal

The holder of a permit may apply for renewal and the renewal shall be issued on the basis of the following requirements and written findings by the commission that:

- (1) the terms and conditions of the existing permit are being satisfactorily met;
- (2) the performance bond or substitute collateral required under the terms of this chapter will continue in full force and effect and unimpaired for the requested renewal, revision, or transfer;
- (3) the operator has provided additional or revised information as required by the commission; and
- (4) notice under Section 131.159 of this code has been provided with respect to the application for renewal, revision, or transfer.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.147. Renewal Application Fee

(a) Each application for renewal of a surface mining permit shall be accompanied by a renewal application fee as determined by the commission in accordance with a published fee schedule.

(b) The fee shall be based as nearly as possible on the actual or anticipated cost of reviewing the application, but in no event shall the amount exceed \$200.

(c) The approved application fee as provided in Section 131.135 of this code is not applicable to a renewal application except for the portion, if any, that addresses any new land areas.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.148. Extension of Permit Coverage

If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit that addresses any new land areas shall be subject to the full standards, including application fees, applicable to new applications under this chapter.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.149. Term of Renewal Permit

A surface mining permit renewal shall be for a term not to exceed the period of the original permit established under this chapter.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.150. Time Limit for Renewal Application

Application for permit renewal shall be made at least 90 days before the expiration of the valid permit.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.151. Revision of Permit

During the term of a surface mining permit, the permittee may submit an application, together with a revised reclamation plan, to the commission for a revision of the permit.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.152. Approval or Disapproval of Permit Revision

No application for a revision of a permit may be approved unless the commission finds that reclamation as required under this chapter can be accomplished under the revised reclamation plan.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1990, ch. 784, § 2, eff. Aug. 27, 1979.]

§ 131.153. Guidelines for Revision

(a) The commission shall establish by rule guidelines for a determination of the scale or extent of a revision request to which all permit application information requirements and procedures, including notice and hearings, shall apply.

(b) A revision that proposes a substantial change in the intended future use of the land or significant alteration in the reclamation plan shall be subject at a minimum to the notice and hearing requirements provided in Sections 131.159 and 131.163 of this code.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.154. Extensions to Area

Except for incidental boundary revisions, an extension to the area covered by a permit must be made by application for another permit or for revision of a permit.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.155. Transfer of Permit

(a) No transfer, assignment, or sale of the rights granted under a permit issued under this chapter shall be made without the written approval of the commission.

(b) A person desiring to succeed to the interests of a permittee under this chapter must file an application on a form prescribed by the commission and including any pertinent information the commission by rule may require.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.156. Required Information for Transfer

As part of the information for transfer, the commission shall require:

(1) the information required by Subdivisions (1) and (4) of Section 131.133 of this code relating to ownership and other mining activities of the applicant;

(2) proof that the public liability insurance requirement in Section 131.143 of this code will be fulfilled;

(3) proof that the performance bond or substitute collateral required by Sections 131.201 through 131.206 of this code will be furnished; and

(4) the statement of the applicant that he will faithfully carry out all of the requirements of the reclamation plan approved in the original application.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.157. Approval of Transfer

After notice and an opportunity for a public hearing, if required under Sections 131.159 and 131.163 of this code, and on a written finding by the commission that the requirements of Sections 131.146 through 131.150 of this code have been met, the application for transfer shall be approved.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.158. Denial of Application for Transfer

An application for transfer shall be denied if the applicant has had a permit issued under this chapter revoked or a bond posted to comply with this chapter forfeited, and the conditions causing the permit to be revoked or the bond to be forfeited have not

been corrected to the satisfaction of the commission.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 849, ch. 379, § 1, eff. June 6, 1979.]

§ 131.159. Notice by Applicant

(a) At the time an application for a surface mining permit or an application for revision, renewal, or transfer of an existing surface mining permit is submitted under this chapter, the applicant shall publish notice of the ownership, location, and boundaries of the permit area sufficiently detailed for local residents to locate readily the proposed operation and the location at which the application is available for public inspection.

(b) The notice shall be published in the local newspaper of greatest general circulation in the locality in which the proposed surface mine is to be located.

(c) The notice shall be published at least once a week for four consecutive weeks.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.160. Notification by Commission

The commission shall contact various local governmental bodies, planning agencies, sewage, and water treatment authorities or water companies that have jurisdiction over or in the locality in which the proposed surface mining will occur, and the owners of record of surface areas within 500 feet of any part of the permit area and shall give them notice of the applicant's intention to surface mine a particularly described tract of land and indicate the applicant's permit number, if any, and the place at which a copy of the proposed mining and reclamation plan may be inspected.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.161. Comments

(a) Within 30 days after the last publication as provided in Section 131.159 of this code, each local body, agency, authority, or company may submit written comments with respect to the effect of the proposed operation on the environment within its area of responsibility.

(b) These comments shall be made part of the record, and one copy of the comments shall be furnished to the operator.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.162. Written Objections

(a) Within 30 days after the last publication of notice under Section 131.159 of this code, a person affected or a federal, state, or local governmental

agency or authority is entitled to file with the commission written objections to the application for a surface mining permit or to the application for the renewal, revision, or transfer of a surface mining permit.

(b) The written objections shall be made part of the record and one copy of the written objections shall be furnished to the operator.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.163. Notice and Public Hearing

(a) If the commission determines that the application for a surface mining permit is of a significance sufficient to warrant a public hearing, the commission shall hold a public hearing in the locality of the proposed surface mining and reclamation operations.

(b) In determining whether to hold a public hearing, the commission shall consider any objections that have been filed, and if no substantial written objections have been filed, no hearing shall be required.

(c) The commission shall publish notice of the date, time, and location of the public hearing in the newspaper with the greatest general circulation in the locality at least once a week for three consecutive weeks before the scheduled hearing date.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 853, ch. 379, § 5, eff. June 6, 1979.]

§ 131.164. Repealed by Acts 1979, 66th Leg., p. 1991, ch. 784, § 5, eff. Aug. 27, 1979

§ 131.165. Procedure

The commission shall comply with the Administrative Procedure and Texas Register Act¹ in all proceedings under this chapter except where inconsistent with this chapter.

[Acts 1977, 65th Leg., p. 2626, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, § 2, eff. Aug. 27, 1979.]

¹ Civil Statutes, art. 6252-13a.

§ 131.166. Repealed by Acts 1979, 66th Leg., p. 1991, ch. 784, § 5, eff. Aug. 27, 1979

[Sections 131.167 to 131.200 reserved for expansion]

SUBCHAPTER E. BONDS AND DEPOSITS

§ 131.201. Performance Bond Requirement

(a) After a surface mining permit application has been approved but before the permit is issued, the applicant shall file with the commission, on a form prescribed by rule, a bond for performance payable to the State of Texas and conditioned on full and

faithful performance of all the requirements of this chapter and the permit.

(b) The bond shall cover that area of land within the permit area on which the operator will initiate and conduct surface mining and reclamation operations, and as succeeding increments of surface mining and reclamation operations are to be initiated and conducted within the permit area, the operator shall file with the commission an additional bond or bonds to cover the increments in accordance with Sections 131.202 through 131.206 of this code.

[Acts 1977, 65th Leg., p. 2626, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.202. Amount of Performance Bond

(a) The amount of the bond required for each bonded area depends on the reclamation requirements of the approved permit and shall be determined by the commission.

(b) The commission's determination shall be based on at least two independent estimates, one of which shall be submitted by the permit applicant and the other prepared at the commission's direction under procedures established by rule. Only one independent estimate need be submitted if the applicant waives his right to submit an estimate.

(c) The amount of the bond shall be determined by the commission and shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture, but in no event shall the bond exceed the highest independent estimate made under this section.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.203. Bond Without Surety

The commission may accept the bond of the operator itself, without separate surety, if the operator demonstrates to the satisfaction of the commission the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient to self-insure or bond the amount.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.204. Extent of Liability Under Bond

Liability under the bond shall be for the duration of surface mining and reclamation operations and for a period coincident with the operator's responsibility pursuant to Section 131.102 of this code.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.205. Security for Bond

(a) The bond shall be executed by the operator and a corporate surety licensed to do business in

this state, or the operator may elect to deposit cash or negotiable securities acceptable to the commission, or an assignment of a savings account in a Texas bank on an assignment deposit form prescribed by the commission's rules.

(b) A cash deposit or market value of the substitute collateral shall be equal to or greater than the amount of the bond required for the bonded area.

(c) Cash or other substitute collateral shall be deposited on the same terms as the terms on which surety bonds may be deposited.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.206. Increase or Decrease of Bond

(a) The amount of the bond or deposit required and the terms of acceptance of the applicant's bond or substitute collateral may be increased or decreased from time to time to reflect changes in the cost of future reclamation of land mined or to be mined.

(b) The amount of the bond or substitute collateral may be reduced only in accordance with the provisions of Sections 131.208 through 131.213 of this code.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.207. Forfeiture of Operator's Performance Bond

On issuance of a final order revoking an operator's permit for failure to comply with an order of the commission to take action as required by this chapter or rules adopted under this chapter, the operator's performance bond shall be forfeited if it is determined that forfeiture is necessary to reclaim land disturbed by the operator's surface mining operation.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.208. Application for Release of Performance Bond or Deposit

(a) At any time, an operator may file an application with the commission for the release of all or part of the performance bond or deposit.

(b) The application shall be on a form prescribed by the commission and in addition to other information the commission may require, shall include the type and the approximate date of reclamation work performed and a description of the results achieved as they relate to the operator's reclamation plan.

(c) The commission shall file a copy of the bond release application for public inspection with the county clerk at the county courthouse of the county

in which the surface mining and reclamation operation is located.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.209. Notice

(a) The operator shall submit a copy of a notice that has been published once a week for four consecutive weeks in the newspaper of greatest general circulation in the locality of the surface mining and reclamation operation.

(b) The advertisement shall be considered part of any bond release application and shall include:

(1) notice of the location and boundaries of the land affected;

(2) the permit number and the date approved;

(3) the amount of the bond filed and the portion sought to be released; and

(4) the location at which the bond release application has been placed for public inspection.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.210. Inspection and Evaluation

(a) On receipt of the notice and request, the commission shall conduct an inspection and evaluation of the reclamation work involved, the inspection and evaluation to occur within a reasonable time not to exceed 45 days.

(b) The evaluation shall consider among other things:

(1) the degree of difficulty to complete remaining reclamation;

(2) whether pollution of surface and subsurface water is occurring;

(3) the probability of continuance or future occurrence of pollution; and

(4) the estimated cost of abating pollution.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.211. Basis for Release of Bond or Deposit

The commission may release in whole or part the bond or deposit if it is satisfied that reclamation covered by the bond or deposit or a portion of the bond or deposit has been accomplished as required by this chapter according to the following schedule:

(1) when the operator completes required back-filling, regrading, and drainage control of a bonded area as provided in his approved reclamation plan, the commission may authorize the release of up to 75 percent of the bond or substitute collateral for the applicable permit area, provided the amount of the unreleased portion of the bond or substitute collateral is not less than the amount necessary to assure completion of the reclamation work by a third party in the event of forfeiture; and

(2) when the operator has successfully completed the remaining reclamation activities, but not before the expiration of the period specified for operator responsibility in Section 131.102 of this code, the commission may release the remaining portion of the bond or substitute collateral, provided that no bond is fully released until all reclamation requirements of this chapter are fully met.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.212. Disapproval of Application for Bond or Deposit Release

If the commission disapproves the application for release of the bond or deposit or a portion of the bond or deposit, it shall notify the operator in writing of the reasons for disapproval and recommend corrective actions necessary to secure the release.

[Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.213. Notice of Release to Local Governmental Agency

Within 30 days after an application for total or partial bond or deposit release is filed with the commission, the commission shall notify the local governmental agency in which the surface mining operation is located by certified mail.

[Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.214. Objections to Release

(a) Any person or the officer or head of a federal, state, or local governmental agency is entitled to file written objections to the proposed release from the bond or deposit.

(b) The objections must be filed with the commission within 30 days after the last publication of notice as provided in Section 131.209 of this code.

(c) If the commission determines that the application is of a significance sufficient to warrant a public hearing considering the objections that have been filed, the commission shall hold a public hearing.

(d) The commission shall give notice to all interested parties of the time and place of the hearing which shall be conducted as provided in Sections 131.160 through 131.164 of this code.

(e) The hearing shall be held in the locality of the surface mining operation proposed for bond or deposit release.

(f) Notice of the date, time, and location of the public hearing shall be published by the commission as provided in Section 131.163 of this code.

[Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 131.215 to 131.230 reserved for expansion]

SUBCHAPTER F. FUNDS

§ 131.231. Land Reclamation Fund

(a) Money received through the payment of fees, loans, grants, gifts, penalties, bond forfeitures, and other money received by the commission shall be deposited in the State Treasury and credited to a special account to be designated the land reclamation fund.

(b) The fund shall be available to the commission and may be spent for the administration and enforcement of this chapter and for the reclamation of land affected by surface mining operations.

[Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.232. Appropriation

Money for the operation of the commission under this chapter shall be appropriated by the legislature.

[Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.233. Use of Proceeds From Bond Forfeitures and Penalties

Proceeds from the forfeiture of bonds and penalties recovered shall be spent to reclaim land as provided in this chapter with respect to which the bonds were provided and the penalties assessed.

[Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.234. Reclamation of Land

(a) In the reclamation of land affected by surface mining for which funds are available, the commission may use services of other state agencies or the federal government and may compensate them for the services.

(b) The commission may have reclamation work done by its own employees or by employees of other governmental agencies or through contracts with qualified persons.

(c) The contracts shall be awarded to the lowest bidder on competitive bids after reasonable advertisement.

(d) The commission and any other agency and any contractor under a contract are entitled to access to the land affected to carry out the reclamation.

[Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 131.235 to 131.260 reserved for expansion]

SUBCHAPTER G. ENFORCEMENT

§ 131.261. Conditions, Practices, and Violations Creating Imminent Danger or Causing Imminent Harm

(a) On the basis of any inspection, if the commission or its authorized representative or agent determines that a condition or practice exists or that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, and that this condition, practice, or violation also creates an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause significant imminent harm to land, air, or water resources, a member of the commission shall immediately order a cessation of surface mining operations on the portion of the area relevant to the condition, practice, or violation.

(b) The cessation order shall set a time and place for a hearing to be held before the commission and shall be held as soon after the order is issued as is practicable.

(c) The requirements of Section 131.159 of this code relating to time for notice, newspaper notice, and method of giving notice do not apply to a hearing under this section, but general notice shall be given in the manner that the commission judges to be practicable under the circumstances.

(d) No more than 24 hours after the commencement of the hearing and without adjournment, the commission shall affirm, modify, or set aside the order.

[Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.262. Violations Not Creating Imminent Danger or Causing Imminent Harm

(a) On the basis of an inspection, if the commission or its authorized representative or agent determines that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or is not causing or reasonably expected to cause significant imminent harm to land, air, or water resources, the commission shall issue a notice to the permittee or his agent setting a reasonable time not to exceed 30 days for the abatement of the violation.

(b) If, on expiration of the period of time as originally set or subsequently extended, for good cause shown, and on written finding of the commission, the commission finds that the violation has not been abated, it may order a cessation of surface mining operations on the portion of this area rele-

vant to the violation. However, if requested by the operator, a hearing must be held prior to a commission finding or order.

(c) The cessation order shall remain in effect until the commission determines that the violation has been abated or until modified, vacated, or terminated by the commission under Section 131.263 of this code.

[Acts 1977, 65th Leg., p. 2631, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.263. Continuous Violations

(a) On the basis of an inspection, if the commission has reason to believe that a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed, and if the commission also finds that these violations are caused by the unwarranted failure of the permittee to comply with requirements of this chapter or permit conditions or that the violations are wilfully caused by the permittee, the commission shall issue an order to the permittee forthwith to show cause as to why the permit should not be suspended or revoked.

(b) The order shall set a time and place for a public hearing to be held in accordance with the notice and procedural requirements of Sections 131.159 through 131.164 of this code.

(c) On failure of a permittee to show cause why the permit should not be suspended or revoked, the commission shall promptly suspend, or revoke the permit.

[Acts 1977, 65th Leg., p. 2631, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.264. Form of Notices and Orders

(a) Notices and orders issued under Sections 131.261 through 131.263 of this code shall set forth with reasonable specificity:

- (1) the nature of the violation and the remedial action required;
- (2) the period of time established for abatement; and
- (3) a reasonable description of the portion of the surface mining and reclamation operation to which the notice or order applies.

(b) Each notice or order issued under this section shall be given promptly to the permittee or his agent by the commission.

(c) Notices and orders shall be in writing and shall be signed by the commission or its authorized representative.

(d) A notice or order issued under Sections 131.261 through 131.263 of this code may be modified, vacated, or terminated by the commission.

[Acts 1977, 65th Leg., p. 2631, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.265. Civil Actions

(a) The commission may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order, if the permittee:

- (1) violates or fails or refuses to comply with an order or decision issued by the commission under this chapter;
- (2) interferes with, hinders, or delays the commission or its authorized representative in carrying out the provisions of this chapter;
- (3) refuses to admit an authorized representative to the mine;
- (4) refuses to permit inspection of the mine by an authorized representative;
- (5) refuses to furnish information or a report requested by the commission under the commission's rules; or
- (6) refuses to permit access to and copying of records the commission determines reasonably necessary to carry out the provisions of this chapter.

(b) The action shall be brought in a district court in Travis County or in the county in which the greater portion of the surface mining and reclamation operation is located.

(c) The court has jurisdiction to provide the relief that is appropriate, and relief granted by the court to enforce Subdivision (1) of Subsection (a) of this section shall continue in effect until the completion or final termination of all proceedings for review of the order under this chapter unless before that time the district court granting the relief sets the order aside or modifies it.

[Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.266. Injunctive Relief and Civil Penalty

(a) The commission may have a civil suit instituted for injunctive relief to restrain a permittee from continuing a violation or threatening a violation or for the assessment of a civil penalty of not more than \$5,000 as the court considers proper for each day of violation, or for both.

(b) In determining the amount of the civil penalty, consideration shall be given to:

- (1) the permittee's history of previous violations under this chapter;
- (2) the appropriateness of the penalty to the size of the business of the permittee;
- (3) the seriousness of the violation, including irreparable harm to the environment and hazard to the health or safety of the public;
- (4) whether the permittee was negligent; and

(5) the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notice of the violation.

[Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.2661. Administrative Penalty

(a) If a person violates a permit of this chapter and the violation results in pollution of the air or water of this state or poses a threat to the public safety, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the permittee's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or person charged.

[Acts 1983, 68th Leg., p. 1409, ch. 286, § 2, eff. Aug. 29, 1983.]

§ 131.2662. Penalty Assessment Procedure

(a) A civil penalty may be assessed only after the person charged with a violation described under Section 131.2661 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

[Acts 1983, 68th Leg., p. 1409, ch. 286, § 2, eff. Aug. 29, 1983.]

§ 131.2663. Payment of Penalty; Refund

(a) On the issuance of notice or an order finding that a violation has occurred, the commission shall inform the person charged within 30 days of the proposed amount of the penalty.

(b) Within the 30-day period immediately following the day on which the notice or order is issued,

the person charged with the penalty shall pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the commission for placement in an escrow account.

(c) If through administrative or judicial review of the proposed penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.

(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

[Acts 1983, 68th Leg., p. 1409, ch. 286, § 2, eff. Aug. 29, 1983.]

§ 131.2664. Recovery of Penalty

Civil penalties owed under Sections 131.2661–131.2663 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

[Acts 1983, 68th Leg., p. 1409, ch. 286, § 2, eff. Aug. 29, 1983.]

§ 131.267. Criminal Penalty for Violating Permits and Orders

A person who wilfully and knowingly violates a condition of a permit issued under this chapter or fails or refuses to comply with an order issued under Section 131.264 of this code or an order incorporated in a final decision issued by the commission under this chapter, on conviction by a district court, shall be punished by a criminal penalty of not more than \$10,000 or by imprisonment for not more than one year or by both.

[Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.268. Criminal Penalty for Corporate Permittee

If a corporate permittee violates a condition of a permit issued under this chapter or fails or refuses to comply with an order issued under Section 131.264 of this code or an order incorporated in a final decision issued by the commission under this chapter, a director, officer, or agent of the corporation who wilfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal, on conviction by a district court, is punishable by a criminal penalty of not more than \$10,000 or by imprisonment for not more than one year or by both.

[Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.269. Criminal Penalty for False Statement, Representation, or Certification

A person who knowingly makes a false statement, representation, or certification or who knowingly fails to make a statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained under this chapter, on conviction by a district court, is punishable by a criminal penalty of not more than \$10,000 or by imprisonment for not more than one year or by both.

[Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.270. Recovery of Civil Penalties

(a) The commission may request the attorney general to institute a suit to recover civil or criminal penalties or to obtain injunctive relief or for both as provided in Sections 131.265 through 131.269 of this code.

(b) Suit shall be brought in a district court in Travis County or in the county in which the greater portion of the surface mining and reclamation operation is located.

[Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 132. INTERSTATE MINING COMPACT

Sec.

- 132.001. Adoption of Compact.
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§ 132.001. Adoption of Compact

The Interstate Mining Compact is enacted into law and entered into with all other jurisdictions legally joining in the compact in the form provided in Section 132.002 of this code.

[Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 132.002. Text of Compact

The Interstate Mining Compact reads as follows:

INTERSTATE MINING COMPACT

ARTICLE I. FINDINGS AND PURPOSES

(a) The party states find that:

(1) Mining and the contributions thereof to the economy and well-being of every state are of basic significance.

(2) The effects of mining on the availability of land, water, and other resources for other uses present special problems which properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes, and the public.

(3) Measures for the reduction of the adverse effects of mining on land, water, and other resources may be costly and the devising of means to deal with them are of both public and private concern.

(4) Such variables as soil structure and composition, physiography, climatic conditions, and the needs of the public make impracticable the application to all mining areas of a single standard for the conservation, adaptation, or restoration of mined land, or the development of mineral and other natural resources, but justifiable requirements of law and practice relating to the effects of mining on land, water, and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operations similarly situated.

(5) The states are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles and with due regard for local conditions.

(b) The purposes of this compact are to:

(1) advance the protection and restoration of land, water, and other resources affected by mining;

(2) assist in the reduction or elimination or counteracting of pollution or deterioration of land, water, and air attributable to mining;

(3) encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party states which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated;

(4) assist the party states in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration, or protection of such land and other resources;

(5) assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.

ARTICLE II. DEFINITIONS

As used in this compact, the term:

(a) "Mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter, any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location, and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on-site farming or construction.

(b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

ARTICLE III. STATE PROGRAMS

Each party state agrees that within a reasonable time it will formulate and establish an effective program for the conservation and use of mined land, by the establishment of standards, enactment of laws, or the continuing of the same in force, to accomplish:

(a) the protection of the public and the protection of adjoining and other landowners from damage to their land and the structures and other property thereon resulting from the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations;

(b) the conduct of mining and the handling of refuse and other mining wastes in ways that will reduce adverse effects on the economic, residential, recreational, or aesthetic value and utility of land and water;

(c) the institution and maintenance of suitable programs of adaptation, restoration, and rehabilitation of mined land;

(d) the prevention, abatement, and control of water, air, and soil pollution resulting from mining, present, past, and future.

ARTICLE IV. POWERS

In addition to any other powers conferred on the Interstate Mining Commission established by Article V of this compact, such commission shall have power to:

(a) study mining operations, processes, and techniques for the purpose of gaining knowledge concerning the effects of such operations, processes, and techniques on land, soil, water, air, plant and animal life, recreation, and patterns of community or regional development or change;

(b) study the conservation, adaptation, improvement, and restoration of land and related resources affected by mining;

(c) make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact;

(d) gather and disseminate information relating to any of the matters within the purview of this compact;

(e) cooperate with the federal government and any public or private entities having interest in any subject coming within the purview of this compact;

(f) consult, on the request of a party state and within resources available therefor, with the officials of such state in respect to any problem within the purview of this compact;

(g) study and make recommendations with respect to any practice, process techniques, or course of action that may improve the efficiency of mining or the economic yield from mining operations;

(h) study and make recommendations relating to the safeguarding of access to resources which are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate use of land and other resources containing minerals or otherwise connected with actual or potential mining sites.

ARTICLE V. THE COMMISSION

(a) There is hereby created an agency of the party states to be known as the "Interstate Mining Commission," hereinafter called "the commission." The commission shall be composed of one commissioner from each party state who shall be the governor thereof. Pursuant to the laws of his party state, each governor shall have the assistance of any advisory body (including membership from mining industries, conservation interests, and such other public and private interests as may be appropriate) in considering problems relating to mining and in discharging his responsibilities as the commissioner of his state on the commission. In any instance where a governor is unable to attend a meeting of the commission or perform any other function in connection with the business of the commission, he shall designate an alternate, from among the members of the advisory body required by this paragraph, who shall represent him and act in his place and stead. The designation of an alternate shall be communicated by the governor to the commission in such manner as its bylaws may provide.

(b) The commissioners shall be entitled to one vote each on the commission. No action of the

commission making a recommendation pursuant to Articles IV(c), IV(g), and IV(h) of this compact, or requesting, accepting, or disposing of funds, services, or other property pursuant to this paragraph or Article V(g), V(h), or VII of this compact, shall be valid unless taken at a meeting at which a majority of the total number of votes on the commission is cast in favor thereof. All other action shall be by a majority of those present and voting; provided that action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(c) The commission shall have a seal.

(d) The commission shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The commission shall appoint an executive director and fix his duties and compensation. Such executive director shall serve at the pleasure of the commission. The executive director, the treasurer, and such other personnel as the commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the commission.

(e) Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director with the approval of the commission, shall appoint, remove, or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

(f) The commission may establish and maintain independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

(g) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation.

(h) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and service, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive,

utilize, and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to Paragraph (g) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount, and conditions, if any, of the donation, grant, or services borrowed and the identity of the donor or lender.

(i) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(j) The commission annually shall make to the governor, legislature, and advisory body required by Article V(a) of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been made by the commission. The commission may make such additional reports as it may deem desirable.

ARTICLE VI. ADVISORY, TECHNICAL, AND REGIONAL COMMITTEES

The commission shall establish such advisory, technical, and regional committees as it may deem necessary, membership on which shall include private persons and public officials, and shall cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities. Such committees may be formed to consider problems of special interest to any party states, problems dealing with particular commodities or types of mining operations, problems related to reclamation, development, or use of mined land, or any other matters of concern to the commission.

ARTICLE VII. FINANCE

(a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-half in equal shares, and the remainder in proportion to the value of minerals, ores, and other solid matter mined. In determining such values, the commission shall employ such available public source or sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the

commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of minerals, ores, and other solid matter mined.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Article V(h) of this compact; provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under Article V(h) of this compact, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII. ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force when enacted into law by any four or more states. Thereafter, this compact shall become effective as to any other state on its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX. EFFECT ON OTHER LAWS

Nothing in this compact shall be construed to limit, repeal, or supersede any other law of any party state.

**ARTICLE X. CONSTRUCTION AND
SEVERABILITY**

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

[Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 132.003. Establishment and Duties of Texas Mining Council

The Texas Mining Council is established in the office of the governor and shall perform the duties of the advisory board provided in Section (a), Article V of the Interstate Mining Compact.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 132.004. Membership of Texas Mining Council

(a) The Texas Mining Council is composed of 11 members appointed by the governor.

(b) Each member of the Texas Mining Council shall be a member of the general public who has demonstrated a continuing interest in conservation matters, the head of a state agency, board, or commission, or a representative of the mining industry.

(c) Of the 11 members of the Texas Mining Council, at least three shall be members of the general public who have demonstrated an interest in conservation matters, at least three shall be representatives of the mining industry, and at least two shall be heads of state agencies, boards, or commissions.

(d) The service of members who are heads of state agencies, boards, or commissions is in addition to their other duties.

(e) A person serving as a member of the Texas Mining Council who is the head of a state agency, board, or commission ceases to be a member of the council if he ceases to be head of a state agency, board, or commission.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 132.0041. Limitations on Council Membership

(a) A member or employee of the council may not be an officer, employee, or paid consultant of a trade association for an industry that is engaged in any of the types of mining defined by Section (a), Article II of the Interstate Mining Compact.

(b) A person is not eligible for appointment as a public member of the council if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization related to the field of mining as defined by Section (a), Article II of the Interstate Mining Compact; or

(2) has, other than as a consumer, a financial interest in a business entity related to the field of mining as defined by Section (a), Article II of the Interstate Mining Compact.

[Acts 1983, 68th Leg., p. 2913, ch. 495, § 1, eff. Aug. 29, 1983.]

§ 132.0042. Removal of Council Members

(a) It is a ground for removal from the council if a member:

(1) does not have at the time of appointment the qualifications required by Section 132.004 of this code for appointment to the council;

(2) does not maintain during the service on the council the qualifications required by Section 132.004 of this code for appointment to the council; or

(3) violates a prohibition established by Section 132.0041 of this code.

(b) The validity of an action of the council is not affected by the fact that it was taken when a ground for removal of a member of the council existed.

[Acts 1983, 68th Leg., p. 2913, ch. 495, § 1, eff. Aug. 29, 1983.]

§ 132.005. Terms of Office

Members of the Texas Mining Council shall serve for terms of two years.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 132.0051. Council Chairman

The member of the council selected as the governor's alternate under Section (a), Article V of the Interstate Mining Compact serves as chairman of the council.

[Acts 1983, 68th Leg., p. 2913, ch. 495, § 1, eff. Aug. 29, 1983.]

§ 132.006. Compensation and Travel Expenses

(a) The members of the Texas Mining Council are not entitled to compensation for their services.

(b) The members of the Texas Mining Council are entitled to receive actual expenses incurred for attendance at council meetings or attendance at meetings of the Interstate Mining Commission as alternate for the governor.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 132.007. Membership in Employees Retirement System

(a) The Employees Retirement System of Texas may enter into agreements with the Interstate Mining Commission for participation in the retirement system and other benefit programs for state employees administered by the agency or agencies.

(b) An agreement made under this section shall provide, as nearly as possible, for rights, contributions, obligations, and benefits comparable to those accorded employees of this state participating in or benefiting from the program involved.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 132.008. Filing Bylaws and Amendments

A copy of the bylaws and all amendments to the bylaws of the Interstate Mining Commission promulgated under Section (i), Article V of the Interstate Mining Compact shall be filed in the office of the Secretary of State.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 132.0081. Annual Report

On or before October 1 of each year, the office of the Interstate Mining Compact Commissioner for Texas shall prepare and file with the presiding officer of each house of the legislature a complete and detailed written report describing activities of the office relating to this state's participation in the Interstate Mining Compact and accounting for all funds received and disbursed by the office during the preceding year. The report must be included as part of the annual financial report of the governor's office.

[Acts 1983, 68th Leg., p. 2913, ch. 495, § 1, eff. Aug. 29, 1983.]

§ 132.0082. Application of Sunset Act

The office of the Interstate Mining Compact Commissioner for Texas is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act the office is abolished, and this chapter expires September 1, 1995.

[Acts 1983, 68th Leg., p. 2913, ch. 495, § 1, eff. Aug. 29, 1983.]

TITLE 5. GEOTHERMAL ENERGY AND ASSOCIATED RESOURCES

CHAPTER 141. GEOTHERMAL RESOURCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

- 141.001. Short Title.
- 141.002. Declaration of Policy.
- 141.003. Definitions.

SUBCHAPTER B. POWERS AND DUTIES OF THE RAILROAD COMMISSION

- 141.011. General Duty of the Railroad Commission.
- 141.012. Rules.
- 141.013. Administrative Penalty.
- 141.013. Access to Property.
- 141.014. Penalty Assessment Procedure.
- 141.015. Payment of Penalty; Refund.
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SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSIONER AND BOARD

- 141.071. General Authority of Commissioner.
- 141.072. Deposit of Fees.
- 141.073. Lease of Permanent School Fund Land.
- 141.074. Furnishing Lists of Land to Other Agencies.
- 141.075. Notice of Sale.
- 141.076. Bids.
- 141.077. Leases and Permits for Governmental Agencies.
- 141.078. Unit Agreements.
- 141.079. Report to Legislature.

SUBCHAPTER D. ENFORCEMENT

- 141.101. General Enforcement Authority.
- 141.102. Criminal Penalty.

SUBCHAPTER A. GENERAL PROVISIONS

§ 141.001. Short Title

This chapter may be cited as the Geothermal Resources Act of 1975.

[Acts 1977, 65th Leg., p. 2640, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.002. Declaration of Policy

It is declared to be the policy of the State of Texas that:

(1) the rapid and orderly development of geothermal energy and associated resources located within the State of Texas is in the interest of the people of the State of Texas;

(2) in developing the state's geothermal energy and associated resources, the primary purpose is to provide a dependable supply of energy in an efficient manner that avoids waste of the energy resources;

(3) consideration shall be afforded to protection of the environment, to protection of correlative rights, and to conservation of natural resources by all agencies and officials of the State of Texas involved in directing and prescribing rules or or-

ders governing the exploration, development, and production of geothermal energy and associated resources and by-products in Texas;

(4) since geopressured geothermal resources in Texas are an energy resource system, and since an integrated development of components of the resources, including recovery of the energy of the geopressured water without waste, is required for best conservation of these natural resources of the state, all of the resource system components, as defined in this chapter, shall be treated and produced as mineral resources; and

(5) in making the declaration of policy in Subdivision (4) of this section, there is no intent to make any change in the substantive law of this state, and the purpose is to restate the law in clearer terms to make it more accessible and understandable.

[Acts 1977, 65th Leg., p. 2640, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 394, ch. 185, § 1, eff. Aug. 27, 1979.]

§ 141.003. Definitions

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Board" means the School Land Board. (New.)

(3) "Commissioner" means the Commissioner of the General Land Office.

(4) "Geothermal energy and associated resources" means:

(A) products of geothermal processes, embracing indigenous steam, hot water and hot brines, and geopressured water;

(B) steam and other gasses, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(C) heat or other associated energy found in geothermal formations; and

(D) any by-product derived from them.

(5) "By-product" means any other element found in a geothermal formation which is brought to the surface, whether or not it is used in geothermal heat or pressure inducing energy generation.

[Acts 1977, 65th Leg., p. 2641, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 395, ch. 185, § 2, eff. Aug. 27, 1979.]

[Sections 141.004 to 141.010 reserved
for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF THE RAILROAD COMMISSION

§ 141.011. General Duty of the Railroad Commission

Except for duties and responsibilities given to other agencies and officials under this chapter, the

commission shall regulate the exploration, development, and production of geothermal energy and associated resources on public and private land for the purpose of conservation and the protection of correlative rights.

[Acts 1977, 65th Leg., p. 2641, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.012. Rules

(a) The commission, in consultation with the commissioner, executive director of the Texas Water Quality Board, and the executive director of the Texas Air Control Board, shall make, publish, and enforce rules providing for the rapid and orderly exploration, development, and production of geothermal energy and associated resources and to accomplish the purposes of this chapter.

(b) The rules made under this section shall include rules governing:

(1) protection of the environment against damage resulting from the exploration, development, and production of geothermal energy and associated resources;

(2) prevention of waste of natural resources, including geothermal energy and associated resources, in connection with the exploration, development, and production of geothermal energy and associated resources;

(3) protection of the general public against injury or damage resulting from the exploration, development, and production of geothermal energy and associated resources; and

(4) protection of correlative rights against infringement resulting from the exploration, development, and production of geothermal energy and associated resources.

(c) Rules shall be made and enforced only after a public hearing.

[Acts 1977, 65th Leg., p. 2641, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.013. Administrative Penalty

Text of section as added by Acts 1983, 68th Leg., p. 1419, ch. 286, § 6

(a) If a person violates provisions of this title¹ which pertain to safety or the prevention or control of pollution or the provisions of a rule, order, license, permit, or certificate which pertain to safety or the prevention or control of pollution and are issued under this title, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the person's history of

previous violations of this subchapter or the rules, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person.

[Acts 1983, 68th Leg., p. 1419, ch. 286, § 6, eff. Aug. 29, 1983.]

¹ Section 141.001 et seq.

For text of section as added by Acts 1983, 68th Leg., p. 5263, ch. 967, § 10, see § 141.013, post

§ 141.013. Access to Property

Text of section as added by Acts 1983, 68th Leg., p. 5263, ch. 967, § 10

Members and employees of the commission, on proper identification, may enter public or private property to inspect and investigate conditions relating to the exploration, development, and production of geothermal energy, to monitor compliance with a rule, permit, or other order of the commission, or to examine and copy, during reasonable working hours, those records or memoranda of the business being investigated. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

[Acts 1983, 68th Leg., p. 5263, ch. 967, § 10, eff. Sept. 1, 1983.]

For text of section as added by Acts 1983, 68th Leg., p. 1419, ch. 286, § 6, see § 141.013, ante

§ 141.014. Penalty Assessment Procedure

(a) A civil penalty may be assessed only after the person charged with a violation described under Section 141.013 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

[Acts 1983, 68th Leg., p. 1419, ch. 286, § 6, eff. Aug. 29, 1983.]

§ 141.015. Payment of Penalty; Refund

(a) On the issuance of an order finding that a violation has occurred, the commission shall inform the permittee and any other person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the decision or order is final as provided in Section 16(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), the person charged with the penalty shall:

- (1) pay the penalty in full; or
- (2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:

(A) forward the amount to the commission for placement in an escrow account; or

(B) in lieu of payment into escrow, post a supersedeas bond with the commission under the following conditions. If the decision or order being appealed is the first final commission decision or order assessing any administrative penalty against the person, the commission shall accept a supersedeas bond. In the case of appeal of any subsequent decision or order assessing any administrative penalty against the person, regardless of the finality of judicial review of any previous decision or order, the commission may accept a supersedeas bond. Each supersedeas bond shall be for the amount of the penalty and in a form approved by the commission and shall stay the collection of the penalty until all judicial review of the decision or order is final.

(c) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the commission, remit the appropriate amount to the person, with accrued interest, or where a supersedeas bond has been posted, the commission shall execute a release of such bond.

(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(e) Judicial review of the order or decision of the commission assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with the district court of Travis County, Texas, and not elsewhere, as provided for in Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1983, 68th Leg., p. 1419, ch. 286, § 6, eff. Aug. 29, 1983.]

§ 141.016. Recovery of Penalty

Civil penalties owed under Sections 141.013-141.015 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

[Acts 1983, 68th Leg., p. 1419, ch. 286, § 6, eff. Aug. 29, 1983.]

[Sections 141.017 to 141.070 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSIONER AND BOARD

§ 141.071. General Authority of Commissioner

To facilitate and encourage the rapid and orderly development of geothermal energy and associated resources, the commissioner may:

(1) provide for the orderly exploration of land that belongs to the permanent school fund, excluding wildlife refuges and recreational areas except as provided in Section 141.077 of this code; and

(2) issue permits and charge reasonable fees for the permits in accordance with rules promulgated under this chapter by the board.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.072. Deposit of Fees

The fees collected from issuance of the permits shall be deposited in General Land Office Fund 80 and used as the legislature may direct.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.073. Lease of Permanent School Fund Land

(a) On direction of the commissioner, the board may lease land that belongs to the permanent school fund, excluding wildlife refuges and recreational areas, for the production of geothermal energy and associated resources.

(b) The board has full authority to set the terms and conditions of leases and may adopt rules relating to exploration, development, and production of geothermal energy and associated resources as the board determines to be in the best interest of the state.

(c) The board may require the taking in kind of the state's interest in the geothermal energy and associated resources or its by-products provided from this land.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.074. Furnishing Lists of Land to Other Agencies

Before advertising land for lease, the commissioner shall furnish a list of the tracts considered by the board for lease to the Texas Water Quality Board, the Texas Air Control Board, the commission, and any other state or federal agency that might have information that would be beneficial to the board in its determination of terms and conditions of the proposed lease.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.075. Notice of Sale

Land offered for lease to the public by the board shall be advertised in four daily newspapers in the state that have general circulation at least 30 days in advance of the sale date. The notice shall be published in three issues of each newspaper.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.076. Bids

(a) Sales of leases shall be made by sealed bids.

(b) The board is entitled to reject any and all bids, but if it accepts a bid, the bid must be determined by the board to be in the best interest of the State of Texas.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.077. Leases and Permits for Governmental Agencies

(a) The board may grant permits and leases to state and federal institutions, organizations, or groups desiring to do exploratory or experimental research of geothermal energy and associated resource potentials.

(b) These permits and leases may be granted on land that belongs to the permanent school fund, excluding wildlife refuges and recreational areas.

(c) The permits and leases may be issued or granted for research or experimental purposes under rules and conditions the board determines to be in the best interest of the state.

(d) In granting these leases, the commissioner and board do not have to follow the procedures in this subchapter for leasing to the public.

[Acts 1977, 65th Leg., p. 2643, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.078. Unit Agreements

(a) The board may approve unit agreements of one or more leased tracts on application of the lessees.

(b) Before approving any unit agreement, the board must find that the unit agreement if approved by the board will be in the best interest of the state. [Acts 1977, 65th Leg., p. 2643, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.079. Report to Legislature

During the first 30 days of each regular session of the legislature, the commissioner shall report on the status of the exploration, development, and production of geothermal energy and associated resources under the land governed by this subchapter. [Acts 1977, 65th Leg., p. 2643, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBCHAPTER D. ENFORCEMENT

§ 141.101. General Enforcement Authority

In addition to other authority specifically granted to the commission under this chapter, the commission may enforce this chapter or any rule, order, or permit of the commission adopted under this chapter in the same manner and subject to the same conditions provided by Chapters 81 and 85 of this code, including the authority to seek and obtain civil penalties and injunctive relief under those chapters. [Acts 1983, 68th Leg., p. 5263, ch. 967, § 11, eff. Sept. 1, 1983.]

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

§ 141.102. Criminal Penalty

(a) A person who knowingly, wilfully, or with criminal negligence violates Subchapter B of this chapter¹ or a rule, order, or permit of the commission issued under that subchapter commits an offense.

(b) An offense under Subsection (a) of this section is punishable by a fine of not more than \$10,000 a day for each day a violation is committed.

(c) Venue for prosecution of an alleged violation of this section is in a court of competent jurisdiction in the county in which the violation is alleged to have occurred.

[Acts 1983, 68th Leg., p. 5263, ch. 967, § 11, eff. Sept. 1, 1983.]

¹ Section 141.011 et seq.

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

CHAPTER 142. NATURAL ENERGY AND WATER RESOURCES COMPACT

Sec.
142.001. Ratification.

Sec.
142.002. Appointment of Commissioners.
142.003. Terms and Oath of Commissioners.
142.004. Compensation.
142.005. Text of Compact.

§ 142.001. Ratification

The compact set out in Section 142.005 of this code is ratified by this state.

[Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

§ 142.002. Appointment of Commissioners

When the compact takes effect as provided in Article I, the governor, the lieutenant governor, and the speaker of the house of representatives shall each appoint a commissioner.

[Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

§ 142.003. Terms and Oath of Commissioners

(a) Each commissioner serves a term of two years and until his successor is appointed and has qualified.

(b) Each commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner.

(c) If a vacancy occurs in the office of commissioner, the original appointing officer shall appoint a successor to serve for the unexpired portion of the term.

[Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

§ 142.004. Compensation

Each commissioner is entitled to compensation and reimbursement for expenses as provided by legislative appropriation.

[Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

§ 142.005. Text of Compact

The compact reads as follows:

Article I. The states of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas are eligible to ratify this compact. When three of those states have ratified it, the compact takes effect as to those three states. It takes effect as to others of them when they ratify it.

Article II. (a) The purposes of this compact are to:

- (1) provide for the conservation and wise utilization of natural energy and water resources by party states;
- (2) establish the relative importance of different types of natural energy and water resources being used;

(3) promote comity among the party states and remove causes of present and future controversies;

(4) foster the expeditious development of agriculture and industry in the party states; and

(5) give priority to the exchange of natural energy and water resources among the party states.

(b) To accomplish the purposes of this compact, the party states pledge their mutual cooperation and their intention to develop and execute appropriate programs.

Article III. (a) This compact applies within each party state to individuals, associations, corporations, and governmental and private entities claiming any right to the use of the natural energy or water resources in a party state, except as otherwise provided in this compact.

(b) Each party state agrees that within a reasonable time it may enact laws designed to promote a free flow of natural energy and water resources among all party states. These laws will not apply to states that are not parties to this compact.

Article IV. (a) An administrative agency known as the Interstate Natural Energy and Water Resources Commission is created. Each party state shall appoint, in accordance with its laws, three members of the commission. Members of the commission are known as commissioners.

(b) The commission shall conduct studies and make recommendations to the party states regarding the conservation and wise utilization of natural energy and water resources by those states. It shall recommend to the party states methods of coordinating the exercise of state power to promote maximum conservation and utilization of natural energy and water resources.

(c) The commission may meet as often as it considers necessary, but it must meet at least once each year. At least once each year the commission shall report its findings and recommendations to the governor and legislature of each party state.

(d) The commission shall organize and adopt rules and bylaws for conducting its business. It shall adopt a seal. The commission may not act on any matter except by an affirmative vote of a majority of all commissioners serving on the commission.

(e) The commission shall elect annually from among its members a chairman, vice-chairman, and treasurer. It shall appoint a director who serves at its pleasure. The director is also secretary of the commission. The director and treasurer shall be bonded in an amount and in a manner determined by the commission. The director is responsible for the appointment and discharge of personnel. He shall establish personnel policies, retirement pro-

grams, and employee benefit programs, subject to the approval of the commission.

(f) The commission shall establish and maintain such facilities as it considers necessary for transacting its business.

(g) For the purposes of this compact, the commission may accept and use gifts or grants of money, equipment, or supplies from any public or private legal entity and may accept and use the services of personnel made available to it by any public or private legal entity.

Article V. (a) Nothing in this compact shall be construed as:

(1) affecting the jurisdiction of any interstate agency in which a party state participates;

(2) affecting the provisions of any interstate compact to which a member state is a party, or any obligation of a member state under such a compact;

(3) discouraging additional interstate compacts in which one or more parties to this compact may be a party;

(4) discouraging the coordination of activities regarding a specific natural resource or any aspect of natural resource management;

(5) discouraging the establishment of intergovernmental planning agencies within the area of the states that are party to this compact; or

(6) limiting the jurisdiction or activities of any participating government or any agency or officer of a participating government except as expressly provided in this compact.

Article VI. The commission shall submit to the governor and legislature of each party state a budget of its estimated expenditures for a period of time as is appropriate, based on the laws of that state. Each budget of estimated expenditures shall contain specific recommendations as to the apportionment of costs among the party states.

Article VII. Any party state may, by legislative act and one year's notice, withdraw from this compact.

Article VIII. The provisions of this compact are severable. If any provision or application of it is held invalid, that does not affect the validity of any other provision or application. The provisions of this compact shall be construed liberally to accomplish its purposes.

Article IX. This compact does not seek to affect political balance within the federal system and shall not be construed as requiring the consent of congress under Article I, Section 10, United States Constitution.

[Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

TITLE 6. TIMBER

CHAPTER 151. PROVISIONS GENERALLY APPLICABLE

SUBCHAPTER A. BRANDING AND FLOATING TIMBER

Sec.

- 151.001. Definitions.
- 151.002. Timber to be Branded.
- 151.003. Recording Brand.
- 151.004. Filing Written Report.
- 151.005. Evidence of Ownership.
- 151.006. Penalties.
- 151.007. Venue.

SUBCHAPTER B. BILL OF SALE FOR PURCHASE OF TREES AND TIMBER

- 151.041. Required Bill of Sale.
- 151.042. Information in Bill of Sale.
- 151.043. Expenses in Connection With Bill of Sale.
- 151.044. Statement in Lieu of Bill of Sale for Staves or Crossties.
- 151.045. Penalty.
- 151.046. Applicability.

SUBCHAPTER A. BRANDING AND FLOATING TIMBER

§ 151.001. Definitions

In this subchapter:

- (1) "Lumber" means lumber attached or bound together in some way for floating, but does not include loose lumber.
- (2) "Shingles" means shingles in bunches or bundles, but does not include loose shingles.

[Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.002. Timber to be Branded

A person engaged in floating or rafting timber on the water of a river or creek of this state shall have a log brand and shall brand distinctly each log or stick which he floats or hauls and puts in the water for sale or market.

[Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.003. Recording Brand

(a) A person engaged in floating or rafting timber on the water of a river or creek of this state shall have his log brand recorded by the county clerk in:

- (1) each county in which he cuts timber; and
- (2) the county in which he proposes to sell or market the timber.

(b) The brand shall be recorded in a book kept by the county clerk for that purpose or on microfilm as permitted in Article 1941(a), Revised Civil Statutes of Texas, 1925.

(c) The county clerk shall receive the same fee as is allowed by law for recording stock brands.

[Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.004. Filing Written Report

(a) A person who floats any logs or timber in this state shall make a written report under oath on the first day of January, April, July, and October of each year, or within 15 days of those dates, showing:

- (1) the number of logs cut or floated during the next preceding three months;
- (2) the survey or surveys of land from which the logs were cut or carried;
- (3) the number of logs cut from each survey; and
- (4) a description of the brand placed on the logs.

(b) The person who floats the logs or timber shall file the report required in Subsection (a) of this section with the county clerk of the county in which the timber was cut. The county clerk shall record and index the report in a book kept for that purpose or on microfilm as permitted in Article 1941(a), Revised Civil Statutes of Texas, 1925.

(c) This section of the code does not apply to pickets, posts, rails, or firewood.

[Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.005. Evidence of Ownership

A certificate signed by the county clerk, containing a description of a log brand and the name of the owner of the brand, with a transfer on the back of it, signed and acknowledged by the owner or proved as other instruments for record, shall be prima facie evidence that the person to whom the transfer is made owns the logs described in the certificate.

[Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.006. Penalties

(a) A person who buys or sells any timber or log floating, or that has been floated, in this state before it is branded shall be fined not more than \$10 for each unbranded log or piece of timber purchased, sold, or traced.

(b) A person shall be fined not more than \$200 for each offense if he:

- (1) floats any unbranded log or timber for market;
- (2) fails to make the reports required under Section 151.004 of this code;
- (3) brands any log or timber of another without his authority;
- (4) defaces a brand on any log or timber except when it is in the act of being sawed or manufac-

tured into lumber or other commodity for use in building; or

(5) is not an employee of the owner and without the written consent of the owner takes into possession any branded or unbranded log or timber cut for floating or sawing, or any sawed timber, lumber, or shingle floating in any water of this state or deposited on the banks of a river or stream in this state.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.007. Venue

The accused may be prosecuted in any county in which the timber or lumber was deposited in the water or in which it was unlawfully taken into possession or unlawfully defaced, sold, purchased, or branded.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 151.008 to 151.040 reserved for expansion]

SUBCHAPTER B. BILL OF SALE FOR PURCHASE OF TREES AND TIMBER

§ 151.041. Required Bill of Sale

Before purchasing any trees or timber in the form of logs or pulpwood, a person, firm, partnership, or corporation shall require a bill of sale for the trees or timber, executed and acknowledged by the seller in the manner required by law for registration.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.042. Information in Bill of Sale

The bill of sale shall include:

- (1) the name and address of the seller and purchaser;
- (2) a description of the survey or tract of land from which the logs or pulpwood were cut;
- (3) the number of logs or pulpwood; and
- (4) the markings, if any, on the logs or pulpwood.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.043. Expenses in Connection With Bill of Sale

Notarial fees, filing fees, and other expenses in connection with the bill of sale shall be assumed and paid by the purchaser.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.044. Statement in Lieu of Bill of Sale for Staves or Crossties

(a) On or before the 10th day of each succeeding month from the date of purchase, a purchaser of staves or crossties who does not secure a bill of sale or deed to the staves or crossties shall file a verified statement with the county clerk of the county in which the land is located from which the staves or crossties were cut.

(b) The verified statement shall include:

- (1) the name and address of the seller and purchaser;
- (2) a description of the survey or tract of land from which the staves or crossties were cut;
- (3) the number of staves or crossties; and
- (4) the markings, if any, on the staves or crossties.

(c) The verified statement shall be kept by the county clerk as a record for public inspection for a period of at least two years.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.045. Penalty

A seller or purchaser who fails to see that a bill of sale is given in a sale as provided for in this subchapter, or a purchaser who does not secure a bill of sale and fails to file the statement required by Section 151.044 of this code, is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$100 or confinement for not more than 30 days in the county jail, or both.

[Acts 1977, 65th Leg., p. 2646, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.046. Applicability

The provisions of this subchapter shall not apply to the sale of finished lumber, cedar staves, wood, or posts.

[Acts 1977, 65th Leg., p. 2646, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 152. FOREST PEST CONTROL

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SUBCHAPTER A. GENERAL PROVISIONS

§ 152.001. Policy

It is the public policy of the State of Texas to control forest pests in or threatening forests in this state in order to protect forest resources, enhance the growth and maintenance of forests, promote stability of forest-using industries, protect recreational wildlife uses, and conserve other values of the forest.

[Acts 1977, 65th Leg., p. 2647, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.002. Public Nuisance

Forest pests are declared to be a public nuisance.

[Acts 1977, 65th Leg., p. 2647, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.003. Definitions

In this chapter:

- (1) "Service" means the Texas Forest Service.
- (2) "Forest pests" means insects and diseases that are harmful, injurious, or destructive to forests and whose damage, if uncontrolled, is of considerable economic importance, and includes:
 - (A) pine bark beetles of the genera *Dendroctonus*, *Ips*, *Pissodes*, and *Hylobius*;
 - (B) sawflies of the genus *Neodiprion*;
 - (C) defoliators in the genera *Datana*, *Malacosoma*, *Hyphantria*, *Diapheromera*, and *Galerucella*;
 - (D) pine shoot moth of the genus *Rhyacionia*;
 - (E) wilt of the genus *Chalora*; and
 - (F) rots of the genera *Fomes* and *Polyporus*.

(3) "Forest land" means land on which the trees are potentially valuable for timber products, protection of watersheds, wildlife habitat, recreational uses, or for other purposes, but does not include land within the incorporated limits of a village, town, or city.

(4) "Forest" means the standing trees on forest land.

(5) "Control" means prevent, retard, suppress, eradicate, or destroy.

(6) "Infestation" means actual infestation or infection at conditions beyond normal proportion causing abnormal epidemic loss to present or future commercial timber supply or both.

(7) "Landowner" and "owner" mean a person who owns forest land or has forest land under his direction irrespective of ownership.

(8) "Forest owner" means a person who owns the standing trees on forest land, either by a present right or by a future right under the terms of a valid existing contract.

(9) "Tract" means all contiguous land in common ownership.

[Acts 1977, 65th Leg., p. 2647, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 152.004 to 152.010 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF THE TEXAS FOREST SERVICE

§ 152.011. In General

The Texas Forest Service shall administer the provisions of this chapter and make all relevant determinations.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.012. Surveys and Investigations

(a) The service shall make surveys and investigations to determine the existence of infestations of forest pests and means practical for their control by landowners.

(b) Duly delegated representatives of the service may enter private land and public land, including that held by the United States if permission is obtained, for the purpose of conducting surveys and investigations.

(c) All the service's information shall be available to all interested landowners.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.013. Determination of Area Control Measures

If the service finds an infestation existent or threatened in the state, it shall determine:

- (1) when control measures are needed;
- (2) the nature of the control measures;
- (3) availability of control measures; and
- (4) the techniques by which the control measures shall be applied.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.014. Notice of Finding of Infestation

After determining that an infestation exists, the service shall give notice of the fact by:

- (1) placing a notice in a newspaper or newspapers in the county or counties in which any infested land is located, or, if there is no newspaper in the county, placing a notice in a newspaper or newspapers with general circulation in the county or counties in which any infested land is located, stating its findings and setting a time and place for a hearing on the need for the control of the pest, to be held not less than 10 days from the date of the notice;
- (2) mailing copies of the notice to owners of forest land known to the service to have holdings in the affected area; and
- (3) arranging for publicity on the subject by all news media serving the affected area.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.015. Hearing

At the hearing, the agent of the service who presides shall:

- (1) describe the conditions that have been found;
- (2) explain the measures needed to control the pest infestation;
- (3) hear all suggestions and protests; and
- (4) record the proceedings.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.016. Procedures for Control

(a) As soon as practicable after the hearing, the service shall promulgate procedures to be followed for the control of the infestation and shall:

- (1) mail a copy to all appearing at the hearing and to all to whom notices were originally sent; and
- (2) publish a copy in a newspaper circulated in the affected area in the same manner as publication of preliminary notice.

(b) Publication as provided in Subsection (a) of this section is notice to each landowner and each tract of land in the affected area on the date of publication.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.017. Specific Control Measures

If the provisions of Sections 152.013 through 152.016 of this code have not been applied and control measures are needed to check the spread of the forest pests on forest land owned or controlled by any person, written notice, signed by a duly authorized representative of the service whose mailing address is shown on the notice, shall be given to the person owning or controlling the forest land.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.018. Notice to Specific Landowner

(a) The notice required by Section 152.017 of this code shall inform the landowner of:

- (1) the facts found to exist;
- (2) his responsibilities for the control measures;
- (3) the control technique recommended;
- (4) the law under which control must be accomplished; and
- (5) the authority of the service in the event the landowner takes no action toward controlling the pest.

(b) The notice may be given by:

- (1) personal service on the landowner or on the person having control of the forest land;
- (2) registered or certified mail directed to the landowner or person having control of the forest land at his last known address; or
- (3) if the person or his address is unknown, publication in one issue of a newspaper of general circulation in the county in which the land is located.

(c) A published notice under Subsection (b) of this section shall include the information specified in Subsection (a) of this section, state the name of the owner, if known, and briefly describe the land to which the notice applies.

(d) No other notice is necessary under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.019. Notice to Forest Owner

If the landowner has given notice to the service of an interest in the forest on his land owned by another, as provided for in Section 152.064 of this code, the service shall furnish the same information to the forest owner that it is required by the provisions of this chapter to give to the landowner.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.020. Supervision

(a) The service shall keep informed of what is done by the landowner to take measures to control the infestation and the result of it.

(b) The service may change its prescribed procedures as conditions or new information may require.

(c) On request, the service shall certify when all reasonably practicable measures to be done by the landowner, pursuant to its prescribed procedures, have been completed.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.021. Control Measures Applied by Forest Service

If pest control measures prescribed by the service are not applied by the landowner or any other person within 10 days from the time notice is given as provided in this chapter, exclusive of the date the notice is given, representatives of the service shall enter the land and have the forest pests controlled or destroyed.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.022. Expense of Control Measures Taken by Service

(a) Except as provided in Subsection (b) of this section, all charges and expenses of destruction or control measures taken by the service shall be paid by the owner of the land on which the infestation occurred.

(b) If the tract with respect to which the service conducted control measures contains 50 acres of forest land or less and the landowner in whose name the record title to the land stands owns no more than 50 acres of forest land in the county in which the infestation occurred, the cost of control shall be borne by the service.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.023. Claim Against Landowner

If control is undertaken by the service, the cost, not to exceed \$10 for each infested acre or part of an acre on which control measures have been employed, constitutes a legal claim against the landowner, but does not constitute a lien on any land owned by the landowner.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.024. Suit

The attorney general may bring suit on behalf of the service in the county in which the infestation occurred to recover the claim against the landowner, together with all costs incurred in the suit.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.025. Landowner Reimbursement

If the landowner has given the service notice of an interest owned by another in the forest on his land and the landowner has made expenditures for pest control purposes as provided in Section 152.062 of this code, or has paid a legal claim against him under the provisions of Sections 152.022 through 152.024 of this code, the landowner is entitled to a reasonable reimbursement for the expenses from the forest owner. The reimbursement shall be proportional to the interest owned in the forest by the forest owner.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.026. Cooperative Agreements

The service may enter into cooperative agreements with private landowners or forest owners, the federal government, or other public or private agencies to accomplish the control of forest pests.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 152.027 to 152.060 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF THE LANDOWNER

§ 152.061. General Duty of Landowner

Each owner of forest land shall control the forest pests on land owned by him or under his direction as provided in this chapter.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.062. Duty to Apply Control Measures

Within 10 days after notice is given as provided in Section 152.014 or 152.018 of this code, exclusive of the date the notice is given, each affected landowner shall commence diligently to take measures to control the infestation as prescribed and continue this activity with all practical expedition and efficiency under the direction of the service.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.063. Reports and Consultation With Service

(a) The landowner shall notify the service of his actions and the result of his actions.

(b) The landowner may report to and consult with a representative of the service as often as necessary.

[Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.064. Notifying Service of Forest Owner

If all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, the landowner shall notify the service of that fact and furnish the names and addresses of the forest owner within 10 days after receiving the notice from the service as provided for in Section 152.014 or 152.018 of this code.

[Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 152.065 to 152.100 reserved for expansion]

SUBCHAPTER D. JUDICIAL REVIEW**§ 152.101. Judicial Review of Service Notice**

A landowner or person having control of forest land who is aggrieved by the notice given by the service is entitled to seek relief but only if the proceedings to obtain the relief are initiated within 10 days from the time notice is given, exclusive of the date the notice is given.

[Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.102. Venue

The proceeding to obtain relief shall be in the district court of the county in which the land is located.

[Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.103. Control Measures Pending Litigation

The service shall not proceed with any control measures while the litigation is pending unless permission to do so is given by the court on a showing of probable harm due to a delay in using the control measures.

[Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.104. Repealed by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(49), eff. Aug. 31, 1981

The repealed section, relating to priority of cases, was derived from Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1.

§ 152.105. Injunctive Relief for Landowner

If the final judgment in an action seeking relief from a notice is in favor of the landowner, the landowner may be entitled to injunctive relief against the use of any control measures on his forest land by the service until such time as the court may determine.

[Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 152.106. Notice Final

If the final judgment is against the landowner, or if the landowner fails to seek relief in the district court of the county in which the land is located, the notice from the service is final, and the service shall summarily take the measures necessary to control the infestation.

[Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 161.001. Definitions.

In this chapter:

- (1) "Board" means the Veterans Land Board.
- (2) "Commissioner" means the Commissioner of the General Land Office.
- (3) "Land office" means the General Land Office.
- (4) "Program" means the Veterans Land Program.
- (5) "Fund" means the veterans land fund.
- (6) "Bonds" means veterans land bonds.
- (7) "Veteran," "Texas veterans of the present war or wars, commonly known as World War II," and "Texas veterans of service in the Armed Forces of the United States of America subsequent to 1945" used in Article III, Section 49-b of the Texas Constitution, are synonymous and mean any citizen of the United States either male or female over 18 years of age, who served not less than 90 consecutive 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 after September 16, 1940, who on 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, who was a bona fide resident of this state at the time of his or her enlistment, induction, commission, or drafting, and who is a bona fide resident of this state at the

time of seeking benefits under this chapter; or who has resided in this state for at least five years immediately before the date of filing his or her application.

[Acts 1977, 65th Leg., p. 2655, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Application of Sunset Act

Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.098, purports to add § 2(D) to Civil Statutes, art. 5421m, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so added, § 2(D) reads:

"The Veterans' Land Board is subject to the Texas Sunset Act [Civil Statutes, art. 5429k], but it is not abolished under that Act. The board shall be reviewed under the Texas Sunset Act during the period in which state agencies abolished effective September 1 of 1985 and of every 12th year after 1985 are reviewed."

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

[Sections 161.002 to 161.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 161.011. Veterans Land Board Designated

The Veterans Land Board is a state agency designated to perform the governmental functions authorized in Article III, Section 49-b of the Texas Constitution.

[Acts 1977, 65th Leg., p. 2655, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.012. Bond

(a) Each citizen member of the board shall execute a bond payable to the state in the amount of \$50,000, to be approved by the governor and conditioned on the faithful performance of the member's duties.

(b) The premiums on the member's bond shall be paid from funds appropriated by the legislature for the operation of the land office.

[Acts 1977, 65th Leg., p. 2655, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.013. Executive Secretary and Assistant Executive Secretary

(a) The board shall select an executive secretary and an assistant executive secretary, each of whom shall be nominated by the commissioner and approved by a majority of the board.

(b) The executive secretary and assistant executive secretary shall perform all duties required of them by the board.

[Acts 1977, 65th Leg., p. 2655, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.014. Employees

(a) The commissioner may employ all other employees that may be necessary for the discharge of the board's duties. The employees may include stenographers, typists, bookkeepers, surveyors, appraisers, and other employees in the number and for the time necessary to perform these duties.

(b) The employees of the board are considered to be employees of the land office, and civil and criminal laws regulating the conduct and relations of the employees of the land office apply to the employees of the board.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.015. Compensation and Duties of Employees

The employees of the board shall be paid their compensation and shall perform their duties with the same rules and requirements of the general law governing other state employees in those respects.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.016. Fiscal Agent

(a) The board may designate the State Treasurer as the fiscal agent for payment of principal of and interest on the bonds.

(b) The State Treasurer shall act as fiscal agent without compensation.

(c) In the alternative, the board may employ a private fiscal agent to perform these services and shall pay him adequate compensation.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.017. Meetings of Board

(a) When necessary, the board shall meet on the first and third Tuesdays of each month in the land office, where its session shall be held and continue until its docket is cleared. The board may recess at its own discretion.

(b) The chairman of the board may call special meetings of the board at any time he thinks necessary by giving the other members notice.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.018. Minutes of Board

Minutes of each meeting of the board shall be kept, and only those matters that actually transpire at the meeting shall be entered in the minutes.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.019. Depository for Papers, Records, and Archives

Papers, records, and archives of the board shall be deposited and kept in the land office.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.020. Purchase of Supplies

The board may purchase at state expense through the board of control supplies, including stationery, stamps, printing, record books, and other things that may be needed to carry on the board's functions as a state agency in performing the duties imposed by this chapter.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.021. Seal

The board shall procure and adopt a seal bearing the words "Veterans Land Board" encircled by the oak and olive branches common to other official seals.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.022. Chapter Application to Successor Boards

The provisions of this chapter shall apply to any successor of the board.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.023 to 161.060 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 161.061. General Duties of Board

The board shall:

- (1) authorize and execute negotiable bonds as provided by law;
- (2) provide by resolution for use of the fund in a manner that will effectuate the intent of the constitution and the law;
- (3) fix the interest rates as provided by law;

(4) provide for the forfeiture of contracts of sale and purchase and resale of forfeited land;

(5) conduct investigations it considers necessary; and

(6) formulate policies and rules necessary and not in conflict with the law to ensure the proper administration and to carry out the intent and purposes of the law.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.062. General Duties of Commissioner

The commissioner is the chairman of the board and administrator of the program as provided in Article III, Section 49-b of the Texas Constitution, and shall perform the duties and functions of the board prescribed by law except for those duties and functions provided in Section 161.061 of this code, which shall be performed by the board.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.063. Rules

(a) The board may adopt rules that are not inconsistent with this chapter and that it considers necessary or advisable.

(b) The rules shall be considered a part of this chapter and violation of the rules subject the offender to prosecution under Sections 161.401 through 161.403 of this code.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.064. Board Authority to Make Investigations

The board may make any investigation it considers necessary relating to transactions involving land purchases or sales under this chapter.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.065. Oaths; Books, Records, and Documents

(a) The board is specifically authorized to administer oaths and to examine the books, records, or other documents dealing with or relating to the transactions of any person involved in the transaction.

(b) The board may make copies of the books, records, and other documents that in its judgment may show or tend to show fraud on the board or a veteran or a violation or attempted violation under this chapter.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.066. Subpoena Duces Tecum

The board may issue a subpoena duces tecum to require a person to produce books, records, or any other documents for the board's examination.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.067. Forfeiture of Charter and Rights

(a) If a corporation fails or refuses to comply with the orders of the board under Sections 161.064 through 161.066 of this code, the corporation shall forfeit its right to do business in this state, and its permit or charter shall be canceled or forfeited by the attorney general.

(b) The failure or refusal by a person is presumed to be prima facie evidence of fraud on the board and veteran in violation of this chapter, and the person shall lose and forfeit all rights and benefits under this chapter.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.068. Form of Instruments

The board may prescribe the form and contents of notices, bids, applications, awards, contracts, deeds, and instruments used by the board in carrying out a project or plan if it is not in conflict with the law.

[Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.069. Fees

(a) The board shall collect the fee it considers necessary from each applicant under Subchapter G of this chapter and deposit the fee in a bank. Interest received on the deposit shall be credited to the General Land Office special fund and shall be spent for administrative purposes.

(b) The board shall collect a fee of \$35 from each successful bidder under Section 161.319 of this code. This fee shall be held in a trust fund to be used to pay for examination of title, recording fees, and other expenses, or any one or more of these items and, except as provided in Section 161.319 of this code, the unused balance remaining after the payment for these items shall be refunded.

[Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.070. Additional Fees

(a) The board shall set and collect, for the use of the state, reasonable fees in amounts determined by the board for the following:

(1) each appraisal for each application under Subchapter G of this chapter¹

(2) contract of sale and purchase transfer fee for each transfer

(3) mineral lease service fee for each lease executed by purchasers

(4) reappraisal fee, if required by the board

(5) each loan of abstract

(6) servicing and filing each easement

(7) service fee for each contract of sale and purchase

(8) homesite, severance, or paid-in-full deed.

(b) The fees shall be used for the processing and servicing of purchase applications and contracts of sale and purchase and matters incidental to these purposes.

(c) Fees or portions of fees that are in the opinion of the board unused shall be refunded.

(d) Money received from payment of these fees and not refunded shall be deposited in the State Treasury and credited to the fund and shall be spent as provided in the General Appropriations Act.

[Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 406, ch. 81, § 21(o), eff. Sept. 1, 1983.]

¹Section 161.281 et seq.

Section 21(q) of the 1983 amendatory act provides:

"This section takes effect September 1, 1983, and applies to fees that become due on or after that date. A fee that is collected on or after that date but that became due before that date is covered by law as it existed when the fee became due."

§ 161.071. Pamphlets

The board shall have published pamphlets containing the provisions of this chapter and rules the board desires, and these pamphlets shall be made available to any interested veteran, veterans organization, or other interested person in the state.

[Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.072. Lease by Board

(a) The board may lease any property that it owns on terms it considers proper.

(b) A lease for agricultural and grazing purposes is subject to cancellation on the sale of the property to a veteran.

(c) The board may execute oil, gas, and mineral leases on land purchased by it before it sells the land by following the same procedure provided for the school land board in the lease of public school land.

[Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.073 to 161.110 reserved for expansion]

SUBCHAPTER D. BONDS**§ 161.111. Issuance and Sale of Bonds; Disposition of Proceeds**

By appropriate action, the board may provide by resolution for the issuance and sale of negotiable

bonds authorized by the constitution, and the proceeds shall be a part of the fund.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.112. Installments

The board, at its option, may issue bonds in one or several installments.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.113. Interest Rate

(a) The bonds shall bear the rate of interest prescribed by the board.

(b) The weighted average annual interest rate of the bonds, as that phrase is commonly and ordinarily used and understood in the municipal bond market, may not be more than six percent in each installment.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.114. Payment and Maturity of Bonds

(a) The bonds shall be payable as provided by the board and shall mature serially or otherwise not later than 40 years from their date.

(b) Bonds previously issued shall mature according to their provisions.

(c) The board shall determine the medium of payment for both principal of and interest on the bonds.

(d) The board at its own option may make the bonds redeemable before maturity at the price and under the terms and conditions fixed by the board in the resolution providing for the issuance and sale of the bonds.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.115. Form, Denomination, and Place of Payment of Bonds

The board shall determine the form of the bonds, including the forms of interest coupons attached to the bonds, and shall fix the denomination or denominations of the bonds and the place or places for payment of the principal of and interest on the bonds.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.116. Manner of Execution

(a) The bonds shall be executed by and on behalf of the board as obligations of the state in the manner provided in Subsection (b) of this section.

(b) The bonds shall be signed by the chairman and the secretary of the board and the seal of the board shall be impressed on the bonds. In addition, the bonds shall be signed by the governor and

attested by the Secretary of State with the seal of the state impressed on the bonds.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.117. Signatures and Seals

(a) The resolution authorizing the issuance of an installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals may be used in lieu of manual signatures and manually impressed seals in executing the bonds and attached coupons.

(b) Interest coupons may be signed with the facsimile signatures of the chairman and secretary of the board.

(c) If an officer whose manual or facsimile signature appears on a bond, or whose facsimile signature appears on a coupon, ceases to be an officer before the bonds are delivered, the signature shall still be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.118. Approval by Attorney General

Before bonds are delivered to the purchasers, the record relating to the bonds shall be examined by the attorney general and the record and bonds shall be approved by the attorney general.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.119. Registration With Comptroller

After the bonds are approved by the attorney general, they shall be registered in the office of the state comptroller.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.120. Validity of Bonds

(a) After the bonds are approved by the attorney general and registered with the state comptroller, they shall be held as valid and binding obligations of the state in every action, suit, or proceeding in which their validity is or may be brought into question.

(b) In each action brought to enforce collection of the bonds or rights incident to the bonds, the certificate of approval by the attorney general or a certified copy of that certificate shall be admitted and received in evidence as to the validity of the bonds.

(c) The only defense that can be offered against the validity of the bonds shall be forgery or fraud.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.121. Bonds as Negotiable Instruments

Bonds issued under this chapter have and are declared to have all qualities and incidents of negotiable instruments under the laws of this state.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.122. Preferential Right of Purchase

Immediately after bonds are offered for sale, written notice shall be given to the proper administrators of the various teacher retirement funds, the permanent university fund, and the permanent free school fund of the preferential right given by the constitution to purchase the bonds offered for sale.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.123. Notice for Bids on Bonds

(a) If the board authorizes the issuance of a series of bonds and decides to call for bids, it shall publish an appropriate notice at least one time not less than 10 days before the date of the sale in a daily newspaper of general statewide circulation that is published not less than seven times a week.

(b) The notice shall be published for the number of times the board determines in one or more popularly recognized financial journals of general circulation.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.124. Security for Bid

At its option, the board may require bidders, other than administrators of state funds listed in Section 161.122 of this code, to accompany their bids with exchange or bank cashier's checks in an amount considered adequate by the board to be a forfeit guaranteeing the acceptance and payment for bonds covered by the bids and accepted by the board.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.125. Sale of Bonds

(a) No bonds may be sold for less than their face value with accrued interest from their date and shall be sold after competitive bidding to the highest and best bidder.

(b) The provisions of Subsection (a) of this section do not apply to administrators of the state funds that are given a priority if they exercise the right of priority to take the bonds at the highest price bid by another within 15 days after notice is given.

(c) If two or more administrators of state funds desire to exercise their right of priority to purchase

the bonds, the board shall prorate the bonds to the administrators who desire to make the purchase.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.126. Replacement Bonds

The board may provide for replacement of bonds that are mutilated, lost, or destroyed.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.127. Refunding Bonds

(a) The board may provide by resolution for issuance of refunding bonds for the purpose of refunding outstanding bonds issued under this chapter together with accrued interest on the bonds.

(b) As far as applicable, the preceding provisions of this subchapter shall govern:

- (1) the issuance of the refunding bonds;
- (2) the maturities and other details of the refunding bonds;
- (3) the rights of bondholders; and
- (4) the duties of the board with respect to the refunding bonds.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.128. Bonds as Investments and Security

(a) Bonds issued under Article III, Section 49-b of the Texas Constitution, and this chapter are 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 other political subdivisions and public agencies of the state.

(b) The bonds, if accompanied by unmatured coupons appurtenant to them, are legal and sufficient security for the deposits in the amount of the par value of the bonds.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.129. Taxation of Bonds

Bonds issued under Article III, Section 49-b of the Texas Constitution, and laws implementing that section of the constitution, are exempt from any tax by the state and by cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.130 to 161.170 reserved for expansion]

SUBCHAPTER E. VETERANS LAND FUND

§ 161.171. Money and Land Included in Veterans Land Fund

(a) The veterans land fund shall include:

(1) land purchased by the board until the sale price, interest, and penalties due have been received by the board;

(2) money attributable to bonds issued and sold by the board, including proceeds from the issuance and sale of the bonds;

(3) money received from the sale or resale of land or rights in land purchased with the proceeds from the bonds;

(4) money received from the sale or resale of land or rights in land purchased with other money attributable to the bonds;

(5) interest and penalties received from the sale or resale of the land or rights in the land;

(6) bonuses, income, rents, royalties, and any other pecuniary benefit received by the board from the land;

(7) money received as indemnity or forfeiture for the failure of any bidder for purchase of bonds to comply with his bid and accept and pay for the bonds or for the failure of a bidder for purchase of land comprising a part of the fund to comply with his bid and accept and pay for the land; and

(8) interest received from investments of this money.

(b) Money in the fund shall be deposited in the State Treasury to the credit of the fund.

(c) The provisions of this section may not be construed to prevent the board from accepting¹ for a portion of a tract of land.

[Acts 1977, 65th Leg., p. 2662, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

¹ So in enrolled bill; words "full payment" probably should be inserted.

§ 161.172. Deposit and Use of Bond Money

(a) Money attributable to bonds issued and sold under this chapter shall be credited to the fund and shall be used to retire the bonds and to pay interest on them.

(b) At the time there is sufficient money to retire the bonds, money remaining in the fund over this amount or coming into the fund at a later time shall be governed as provided in this chapter.

[Acts 1977, 65th Leg., p. 2662, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.173. Payment of Principal and Interest; Investments

(a) The principal of and interest on bonds issued by the board shall be paid from money in the fund as provided in the constitutional provision authorizing the bonds.

(b) Money in the fund that is not immediately committed to paying principal of and interest on the bonds, to the purchase of land, or to the payment of expenses as provided in this chapter may be invested in bonds or obligations of the United States until the funds are needed for these purposes.

[Acts 1977, 65th Leg., p. 2662, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.174. Divisions; Use of Money in Divisions to Pay for Various Bond Issues

(a) A division consists of money attributable to bonds issued and sold under a single constitutional authorization and land purchased with money from that issue.

(b) If a division of the fund contains sufficient money to retire bonds secured by the division, the money attributable to that division, except that portion necessary to retire bonds in that division, may be used at the discretion and direction of the board to pay principal of and interest on and authorized expenses for other bonds issued and sold by the board. However, the amount of money necessary to retire bonds in the division shall be set aside and shall remain a part of that division for the purpose of retiring those bonds.

(c) No use of money as provided in Subsection (b) of this section may be made contrary to the rights of a holder of bonds issued and sold by the board or violative of a contract to which the board is a party.

[Acts 1977, 65th Leg., p. 2662, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.175. Use of Fund for Expenses Related to the Land

(a) The board may use money in the fund attributable to bonds that have been issued and sold to pay:

(1) expenses of surveying and monumenting the land and the tracts of land;

(2) the cost of constructing roads on the land or the tracts of land;

(3) legal fees, recordation fees, and advertising costs arising from the purchase and sale or resale of the land and the tracts of land; and

(4) other similar costs necessary or incidental to the purchase and sale of land acquired by the board.

(b) These expenses shall be added to the price of the land when sold or resold by the board.

(c) No money in the fund before November 11, 1967, may be used to pay the expenses listed in Subsection (a) of this section until there is sufficient money in the division to retire all bonds secured by the division, at which time, all money except that needed to retire the bonds secured by the division, which shall be retained in the division to retire the bonds, may be used to pay the expenses as fully as the money attributable to bonds.

[Acts 1977, 65th Leg., p. 2663, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.176. Use of Fund to Pay Bond Expenses

(a) The board may use money in the fund attributable to bonds issued and sold to pay:

- (1) legal fees and fees for financial advice necessary in the opinion of the board to the sale of bonds;
- (2) the expense of publishing notice of sale of an installment of bonds;
- (3) the expense of printing the bonds;
- (4) the expenses of delivering the bonds, including the costs of travel, lodging, and meals of officers or employees of the board, the state comptroller, the State Treasurer, and the attorney general that are necessary in the opinion of the board to effectuate the delivery of the bonds;
- (5) the cost of manually signing the bonds; and
- (6) remuneration to any agent employed by the board to pay the principal of and interest on the bonds.

(b) No money in a division of the fund created before November 11, 1967, may be used to pay the expenses listed in Subsection (a) of this section until there is sufficient money for the division to retire all bonds secured by the division, at which time all money, except that which may be needed to retire the bonds, may be used to pay the expenses under Subsection (a) of this section as fully as money attributable to bonds issued and sold in the future. The money in the division needed to retire the bonds shall remain in the division.

[Acts 1977, 65th Leg., p. 2663, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.177. Purchase and Destruction of Bonds

(a) The board may use money in the fund to purchase on the open market any bonds it has issued and sold, and the debt represented by these bonds when purchased is considered canceled.

(b) Bonds purchased by the board under Subsection (a) of this section shall be mutilated, burned, or otherwise destroyed by the State Treasurer, who shall certify this fact to the board under the seal of his office.

(c) No further interest shall be paid on these bonds.

[Acts 1977, 65th Leg., p. 2664, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.178. Disposal of Excess Funds

(a) Money in the fund that is not spent for the purposes provided in this chapter shall remain in the fund until there is sufficient money to retire fully bonds issued and sold by the board.

(b) Money in the fund that is in addition to that necessary to retire the bonds shall be deposited to the credit of the General Revenue Fund to be appropriated as provided by law, and the money necessary to retire the bonds shall be set aside and shall remain in the fund.

(c) Money that becomes at a later time a part of the fund after there is sufficient money to retire the bonds shall be deposited to the credit of the General Revenue Fund.

[Acts 1977, 65th Leg., p. 2664, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.179. Legislative Appropriations

(a) During the existence of the fund, if the board determines that there will not be sufficient money in the fund during the following biennium to pay principal of or interest on the bonds or both principal and interest that are to come due during the following biennium, the legislature shall appropriate from the General Revenue Fund sufficient money to pay the obligations.

(b) The money appropriated shall be used to pay the obligations only if at the time the principal or interest or both actually become due there is not sufficient money in the fund to pay the amount due.

[Acts 1977, 65th Leg., p. 2664, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.180 to 161.210 reserved
for expansion]

SUBCHAPTER F. PURCHASE, SALE, AND OTHER DISPOSITION OF LAND

§ 161.211. Purchase of Land and Payment of Bonds

(a) A series of bonds is all bonds issued and sold in a single transaction as a single installment of bonds.

(b) Money attributable to any series of bonds issued and sold by the board may be used for the purchase of land that is likewise located and owned, if the land is sold as provided in this chapter, for a period ending eight years after the date of sale of the series of bonds.

(c) As much of the money as is necessary to pay interest on the bonds issued and sold shall be set

aside for that purpose in accordance with the resolution adopted by the board authorizing the issuance and sale of the series of bonds.

(d) At the end of the eight-year period, and until there is sufficient money to retire all the bonds, the money shall be set aside to retire the bonds issued and sold and to pay interest on them, together with any expenses, in accordance with the resolution authorizing the issuance and sale of the additional bonds.

(e) Money coming into the fund not necessary to retire the bonds and pay interest on them under Subsection (d) of this section shall be governed as provided in this chapter.

[Acts 1977, 65th Leg., p. 2664, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.212. Appraisal

(a) Before purchasing land under the provisions of this chapter, the board shall have an appraisal of the property made to determine its value.

(b) An appraiser representing the board shall be reasonably qualified to give competent appraisals of land.

(c) The appraiser shall make a written report to the board in affidavit form, duly sworn to before a notary public or other official authorized to administer oaths, and showing:

- (1) the appraised value of the land;
- (2) the name and address of any person contacted relative to the valuation of the land;
- (3) that the appraiser has examined the records of the county clerk's office relative to the amount paid by the vendor for the land;
- (4) that he has checked past sales of adjacent land to aid in determining valuation;
- (5) if the purchase is being made under Subchapter G of this chapter, that the appraiser has met the veteran on the land and has explained the transaction to him in detail as authorized by this chapter; and
- (6) that neither the appraiser nor any member of his family has received any personal benefits from the transaction and does not expect to receive any future personal benefits from the transaction.

(d) If a veteran is in the active military service and is stationed overseas or in Alaska, Hawaii, or United States territories or possessions, or aboard a ship with a mission outside the continental United States including Alaska, his representative designated by him in writing may meet the board appraiser on the land for the purpose expressed in this section.

[Acts 1977, 65th Leg., p. 2665, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.213. Sworn Report

(a) Before the board purchases land under Section 161.211 of this code or Subchapter G of this chapter, it shall require the seller to execute a sworn report to the board that shall include the following:

- (1) the date the seller purchased the land;
- (2) the amount the seller paid for the land if purchased subsequent to June 7, 1949;
- (3) from whom the seller purchased the land; and
- (4) the improvements made on the land since the seller purchased it and the cost of the improvements.

(b) If the land is purchased under Subchapter G of this chapter, the sworn report shall include the following additional information:

- (1) if the seller by any manner or method is making the down payment to the board on behalf of the veteran;
- (2) if there is a lease arrangement between the seller and the veteran, and if so, the duration, term, and amount to be paid; and
- (3) if there is an agreement or contract of any nature between the seller and the veteran to transfer, sell, or convey at any time in the future.

[Acts 1977, 65th Leg., p. 2665, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.214. Title

(a) Before making payment for land, the board shall have the title of the property sought to be purchased examined and may require for this purpose an abstract of title or policy of title insurance. The board may submit the title to the attorney general for examination and opinion.

(b) The board may purchase land that is subject to outstanding mineral leases or that has all or part of the mineral interests outstanding, but the title must otherwise be marketable and good.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.215. Purchase of Land

Land purchased by the board shall be acquired at the lowest price that can be obtained in the opinion of the board, taking into consideration the quality, location, natural advantages, and improvements of the land. The land shall be paid for in cash and shall be clear of all liens and shall be a part of the fund.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.216. Cost of Land to Board

Except for forfeited land that may be resold to the board at less than actual cost under Section

161.319 of this code, land shall not be sold to the board at less than its actual cost.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.217. Appointment of Local Committee

The commissioners court of each county in the state shall appoint a committee composed of three resident real property owners of the county.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.218. Work of Local Committee

(a) A person who considers himself an eligible veteran under this chapter and who desires to benefit under this chapter shall submit to the local committee the forms prescribed by the board before he submits his application of purchase and sales contract to the board. If the veteran is a resident of one county and is seeking to purchase land located in another, he shall submit the forms to the local committee in both counties.

(b) The local committee shall consider the forms and shall submit to the board a report concerning the financial responsibility of the veteran, if it is known, a statement of opinion as to whether or not the transaction is bona fide, a statement as to the amount the committee considers to be the reasonable value of the land in question, and a statement of the credit rating of the veteran applicant.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.219. Board Investigation

(a) The board may make other inquiries and investigations it considers proper to determine the veteran's eligibility and qualifications.

(b) If the board determines from the information submitted or from its own inquiries and investigations that the financial responsibility of the veteran leaves reasonable doubt as to his ability to carry the contract through to completion and make all payments, the board shall reject the application.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.220. Exemption

The provisions of Sections 161.217 through 161.219 of this code do not apply to sales under Sections 161.175, 161.231 through 161.234, and 161.319 of this code unless the board so desires.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.221. Initiation of Sale

The sale of land by the board may be properly initiated by contract of sale and purchase, and the

contract shall be recorded in the deed records in the county in which the land is located.

[Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.222. Purchase Payments

(a) The purchaser shall make an initial payment of at least five percent of the selling price of the land if sold under Sections 161.175 and 161.231 through 161.234 of this code or at least five percent of the amount the board agrees to pay for the land if sold under Subchapter G of this chapter. In neither event shall the payment be more than five percent of \$20,000 together with an additional down payment as provided in Sections 161.175 and 161.231 through 161.234 of this code or Subchapter G of this chapter.

(b) The balance of the selling price shall be amortized over a period determined by the board not to exceed 40 years together with interest at a rate to be determined by the board. The interest may not exceed one and one-half percent a year more than the accepted bid price for each series in the bond sale division.

(c) The purchaser is entitled to pay any or all installments still remaining unpaid on any installment date.

(d) In an individual case, the board may postpone for good cause the payment of the whole or any part of an installment of the selling price or interest on the selling price on terms the board considers proper.

[Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1898, ch. 768, § 1, eff. June 13, 1979.]

§ 161.223. Board to Specify Terms

The board may specify in each individual case the terms of the contract entered into with the purchaser as long as they are not contrary to the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.224. Time Limit on Transfer

(a) No property sold under this chapter may be transferred, sold, or conveyed in whole or part until the original veteran purchaser has enjoyed possession for a period of three years from the date of purchase of the property and complied with the terms and conditions of this chapter and rules of the board.

(b) If the veteran purchaser dies or becomes financially incapacitated or if there is an involuntary transfer by court order or proceedings including bankruptcy, sheriff or trustee sale, or divorce, the property may be conveyed before the expiration of the three-year period by the purchaser or his heirs,

administrators, or executors by complying with rules of the board and by securing the approval of the board.

(c) After the three-year period, a purchaser may transfer, sell, or convey land purchased under this chapter at any time if all mature interest, principal, and taxes have been paid, the terms and conditions of this chapter and rules of the board have been met, and the approval of the board has been obtained.

[Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.225. Sale to a Nonveteran

If the sale is made to a person other than a qualified Texas veteran, the assignee and all subsequent assignees shall assume an interest rate on the indebtedness to the board determined by the board at an amount not less than one percent a year greater than the rate determined by the board for sale to veterans under Sections 161.175 and 161.231 through 161.234 of this code or Subchapter G of this chapter on the date on which the transfer, sale, or conveyance is approved. If the purchase contract is awarded in a divorce action or incident to a written separation agreement, the interest rate shall not change.

[Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.226. Disposition of Land That is Paid For

Property sold under this chapter may be transferred, sold, or conveyed at any time after the entire indebtedness due to the board has been paid.

[Acts 1977, 65th Leg., p. 2668, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.227. Lease of Land

(a) No land purchased under this chapter may be leased by the purchaser for a term of more than 10 years except as follows: (1) leases for oil, gas, and other minerals may be for a term of not more than 10 years, and as long thereafter as such oil, gas, and other minerals are produced from the land in commercial quantities; and (2) leases for coal and lignite may be for a term of not more than 40 years, and as long thereafter as such coal and lignite are produced from the land in commercial quantities.

(b) No lease may contain a provision for option or renewal of the lease or re-lease of the property for any term which would cause the entire fixed term of such lease or leases to exceed the applicable maximum fixed term set forth in Subsection (a)(1) or (2) above, and the taking of any such option, renewal, or re-lease agreement in a separate instrument to take effect in the future is prohibited. A lease or instrument that contains an option, renewal, or re-

lease agreement in violation of this section is expressly declared to be void.

[Acts 1977, 65th Leg., p. 2668, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 3080, ch. 812, § 1, eff. June 17, 1981.]

§ 161.228. Conditions of Leases

While the veteran is indebted to the board for land purchased, if he executes or there exists a lease or contract of sale of oil, gas, or other minerals, chemicals, or hard metals or a lease or contract of sale for timber, sand, gravel, or other materials that covers all or part of the land and that would result in the depletion of the corpus of the tract, at least one-half of all bonus money, delay rentals, and royalties received as consideration for or payment under the oil, gas, and mineral lease and at least one-half of all money received under a lease or contract of sale of any other minerals, chemicals, hard metals, timber, sand, gravel, and other materials or as much as is required, shall be paid to the board by the owner of the lease or contract of sale and applied by the board to the satisfaction of the indebtedness.

[Acts 1977, 65th Leg., p. 2668, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 3080, ch. 812, § 2, eff. June 17, 1981.]

§ 161.229. Deeds

(a) When the entire indebtedness due the state under the contract of sale is paid, the chairman of the board shall execute a deed under seal to the original purchaser of the land or to the last assignee whose assignment has been approved by the board.

(b) None of the provisions of this chapter shall be construed to prohibit the board from accepting full payment for a portion of a tract and issuing a deed to the land according to the rules of the board.

(c) Deeds issued by the board and executed by the chairman under seal are ratified, confirmed, and validated whether they convey all or only a part of the land contracted to be sold to the veteran.

(d) If a deed is executed to a person other than the legal owner or to a deceased grantee, the deed and the rights conveyed still inure to the benefit of the legal owner.

[Acts 1977, 65th Leg., p. 2668, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.230. Death of Purchaser

(a) If the purchaser of the land dies while indebted to the board under a contract, his rights, acquired under this chapter and the contract devolve on his heirs, devisees, or personal representatives under the laws of this state, but subject to all rights, claims, and charges of the board.

(b) Default by an heir, devisee, or personal representative with respect to a right, claim, or charge of

the board has the same effect as default by the purchaser before his death.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.231. Subdividing Land

Land acquired by the board may be subdivided for sale into tracts of the size the board may consider advisable.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.232. Conditions for Sale of Land

Land acquired and subdivided under Sections 161.175, 161.231, 161.233, and 161.234 of this code shall be offered for sale according to rules adopted by the board and shall be sold by the board to veterans qualified to participate in the program in conformity with the provisions of this chapter relating to the sale of land purchased generally by the board.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.233. Down Payment

(a) Unless the purchaser pays in cash as a down payment under board rules in addition to the initial payment required by Section 161.222 of this code the amount of the sale price in excess of \$20,000 not later than the sale date, no tract may be sold under Sections 161.175 and 161.231, 161.232, and 161.234 of this code at a price including the addition of the expenses provided in Section 161.175 of this code of more than \$20,000.

(b) If the sale is not consummated, the down payment shall be refunded to the veteran.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1899, ch. 768, § 2, eff. June 13, 1979.]

§ 161.234. Sale to Other Purchasers

The provisions of Sections 161.175 and 161.231 through 161.233 of this code notwithstanding, land acquired and subdivided under these sections that has first been offered for sale to veterans and that has not been sold to the purchasers may be sold to any purchaser in the same manner as land forfeited under this chapter.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.235. Rights of Surviving Spouse

If an eligible Texas veteran dies after he has filed with the board an application and contract of sale to purchase through the board the tract selected by him or her and before the purchase is completed,

the surviving spouse of the veteran may complete the transaction.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.236. Number of Tracts Purchased

No veteran may purchase more than one tract of land under this chapter.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.237 to 161.280 reserved for expansion]

SUBCHAPTER G. PURCHASE AND SALE OF SELECTED LAND

§ 161.281. Selection of Land

If a veteran desires a particular tract of land located in this state that contains not less than 10 acres, on proper showing of eligibility to benefits under this chapter, he may be authorized by the board to select the land that he desires and submit his selection to the board on its prescribed form.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.282. Processing Applications

As far as practical, applications shall be processed in the order in which they are received by the board.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.283. Purchase by Board

(a) If the board is satisfied with the value and desirability of the property selected by the veteran, it may purchase the land from its owner on the agreed terms.

(b) The board shall pay not more than \$20,000 for the property, but may pay more if the veteran pays to the board in cash, in accordance with its rules, that portion of the purchase price in excess of the amount that the board agrees to pay. The amount shall be paid not later than the date on which the board acquires title to the property.

(c) A cash payment by the veteran is considered a down payment on the price of the land when sold to the veteran by the board and is in addition to the initial payment required by Section 161.222 of this code.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1899, ch. 768, § 3, eff. June 13, 1979.]

§ 161.284. Appraisal and Title

The board shall have an appraisal of the property made as it considers necessary to determine the value and, before consummating the purchase, shall

satisfy itself regarding the title as provided in Section 161.214 of this code.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.285. Separate Transactions

(a) No transaction under this chapter may be considered together with any other transaction to constitute a block deal between the state and two or more veteran purchasers, and each tract of land is considered as a wholly separate entity without dependence on any other tract of land, substance, matter, person, or thing in determining its value, purchase, or sale under this chapter.

(b) None of the provisions of this chapter may be construed to prevent the purchase or sale or both of contiguous tracts of land to separate purchasers as long as the value of the land is determined in the manner provided in Section 161.284 of this code.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.286. Purchase Preference

(a) The property acquired by the board becomes a part of the fund, but the veteran who has selected the land has a preference right to purchase the land from the board.

(b) To be entitled to the preference right, the veteran shall agree in writing before the board purchases the land to purchase the land from the board for the price paid for it.

(c) If the veteran fails or refuses to exercise the preference right, the land may be sold by the board in the same manner provided for the sale of land forfeited under this chapter.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.287. Rules Governing Sale

The rules governing the sale of land under this subchapter are governed by the provisions of this chapter relating to sale of land generally by the board except where those provisions conflict with this subchapter.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.288. Refund

If the title to the land is not approved and accepted by the board, any amount paid to the board in excess of the amount that the board agreed to pay for the selected land shall be refunded to the veteran together with any other down payment remitted to the board.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.289 to 161.310 reserved for expansion]

SUBCHAPTER H. FORFEITURE

§ 161.311. Board Judge of Forfeiture

The board is the sole judge of forfeiture of any purchase contract under this chapter and any person availing himself of the provisions of this chapter by so doing agrees to abide by this chapter.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.312. Forfeiture by Board

(a) If a portion of the principal of or interest on any sale is not paid when due, or if the provisions of this chapter, the contract, or the rules of the board are not complied with, the contract of sale and purchase is subject to forfeiture by action of the board on 30 days written notice to the original purchaser and his vendee.

(b) The notice shall state the reason why the contract of sale and purchase is subject to forfeiture and is sufficient if given by registered mail to the last known address of the original purchaser and his vendees.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.313. Correction of Reason for Forfeiture

If the person corrects or cures the reason for forfeiture within the 30-day notice period, the board shall not enter an order of forfeiture.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.314. Time of Forfeiture

The forfeiture is effective at the time the board meets and adopts a resolution directing its chairman to endorse on the wrapper that contains the papers of the sale or on the purchase contract filed in the land office the word "forfeited" or words of similar import and the date of the action and to officially sign the document. At that time, the land and all payments previously made are forfeited.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.315. Notice to County Clerk

Notice of the board's action in forfeiting the original contract shall be mailed to the county clerk of the county in which the land is located and the clerk shall enter a notation of the forfeiture on the margin of the page or pages containing the record of the original contract.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.316. Effect of Forfeiture on Leases

On forfeiture, the full title to the land, including both surface and mineral estates, shall revert in the board, and the board shall recognize and continue in force and effect any outstanding valid oil, gas, or mineral lease and collect all rentals, royalties, or other amounts payable under the lease.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.317. Reinstatement of Purchase

(a) If a sale is forfeited and the title to the land reverted in the fund, the original purchaser or his vendee is entitled to reinstate his purchase contract at any time before the date on which the board meets and orders the land to be advertised for resale or for lease for mineral development but not after that time.

(b) A person who exercises a right of reinstatement shall pay all delinquent installments, penalties, and costs incident to the reinstatement as prescribed by the board.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.318. Resale of Land

Land included in a forfeited contract is subject to resale under Section 161.319 of this code.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.319. Resale of Forfeited Land

(a) Resale of forfeited land under this chapter may be made to the highest bidder, but the sale shall be made only to a qualified purchaser under Article III, Section 49-b of the Texas Constitution, and under terms and conditions and at the time and in the manner prescribed by the board in its rules, the provisions of this chapter notwithstanding.

(b) The board may reject any and all bids.

(c) If the successful bidder refuses to execute a contract of sale and purchase, the money submitted with his bid is forfeited and shall be deposited in the State Treasury and credited to the fund.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.320. Interest Rate on Delinquent Principal and Interest

Principal and interest that become delinquent shall bear interest at a rate fixed by the board from time to time but shall not be more than 10 percent a year from the date the principal and interest become delinquent until paid.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.321. Vacating Premises

If the board declares a forfeiture under a purchase contract, the purchaser shall vacate the premises within 45 days after the date of the letter giving notice of the declaration. The letter shall be sent by registered mail to the last known address of the purchaser.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.322. Enforcement of Forfeiture and Protection of Rights

The board, by and through the attorney general, shall institute legal proceedings that are necessary to enforce the forfeiture or to recover the full amount of the delinquent installments, interest, and other penalties that may be due to the board at the time the forfeiture occurred or to protect any other right to the land.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.323. Liability

The liability of the original veteran purchaser and any subsequent assignee or assignees of the veteran are joint and several, but the original veteran purchaser is primarily liable for payment of the money under the original contract of sale and purchase.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.324. Defenses in Lawsuits

After obtaining the permission of the legislature, in any action brought in the courts against the state involving the title to a tract of land to which the state has a warranty deed, the state is entitled to plead all statutes of limitations in the general laws of this state, but this shall not be considered as a limitation to any other defense the state may have.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.325 to 161.360 reserved
for expansion]

SUBCHAPTER I. INSURANCE**§ 161.361. Definitions**

In this subchapter:

(1) "Persons purchasing land under the program" means a person or his successor or assign who buys land from the board under contract of sale and purchase regardless of whether the land is sold under Sections 161.175 and 161.231 through 161.234 or Section 161.319 of this code or Subchapter G of this chapter.

(2) "Person in the group" means a person purchasing land under the program who has elected

to accept the offer of the insurance coverage provided in this subchapter.

(3) "The indebtedness due to the board" means the principal of and interest on the indebtedness necessary to pay in full the obligation set forth in any contract of sale and purchase under which a person in the group is purchasing land from the board, exclusive of delinquent principal, interest, and penalties.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.362. Insurance Requirement

(a) Each veteran purchaser shall carry insurance on the improvements on the property under contract of purchase that the board considers necessary, and failure to do so will subject the contract to forfeiture under Subchapter H of this chapter.

(b) The board may promulgate rules it considers necessary to enforce this section.

(c) If the board desires, it may require each veteran applicant to make additional semiannual payments to be held in trust to pay premiums that may become due and unpaid on the contracted insurance covering the improvements. The payments shall be deposited in a trust fund with the State Treasurer and shall be used to make the premium payments. The unused balance of the veteran's deposit shall be held by the board until the time that maintenance of the account is unnecessary and then shall be refunded to the veteran.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.363. Master Insurance Contract

The board may enter into a master contract or agreement with one or more life insurance companies authorized to do business in this state to provide group life insurance coverage cancelling on death the indebtedness due to the board of persons purchasing land under the program.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.364. Provisions of Insurance

In addition to the provisions of Article 3.50, Insurance Code, as amended, the master contract or agreement shall provide that the life insurance coverage will be offered by the insurer to all persons without physical examination and that no person may be denied coverage because he is disabled at the time of application for the coverage.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.365. Approval of Contract; Contractual Relationship

The policy contract shall be approved by the State Board of Insurance under the provisions of the Insurance Code, as amended, and shall express and control the contractual relationship between the parties to it.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.366. Insurance Not Mandatory

It is not mandatory that a person purchasing land under the program accept the offer of the insurance coverage, and refusal by the person to accept the offer of the coverage shall not be a ground for the board to decline to enter into a contract of sale and purchase with the person.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.367. Amount of Coverage

The total insurance coverage for any person in the group shall not at any time exceed the indebtedness due to the board and in no event shall the total insurance coverage exceed the amount provided in the master contract.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.368. Collection of Premium

The board may collect or provide for collection of the premium for insurance coverage in a reasonable manner.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.369. Death of Insured

If a person in the group dies while the insurance coverage is in force, the benefits of the coverage shall be paid to the board for credit to the fund and the indebtedness due the board shall be canceled.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.370. Cancellation by Insurer

The master contract or agreement shall not prohibit cancellation by the insurer of the entire contract on reasonable notice to the board but shall prohibit cancellation of individual coverage except as provided in this subchapter.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.371. Termination of Insurance

(a) The insurance coverage shall be terminated for any person in the group on:

- (1) the satisfaction of the indebtedness due the board;

(2) the board's approval of a transfer of interest in the land being purchased from the board; or

(3) failure to make timely payment of the premium to be paid for the coverage.

(b) The master contract may provide that coverage will terminate on the person purchasing land under the program attaining the age of 65 years.

(c) If the coverage is terminated for a member of the group for failure to make timely payment of the premium, renewal coverage is subject to evidence of insurability as required by and satisfactory to the insurer and to payment of the premium due plus any penalty that may be provided.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.372 to 161.400 reserved for expansion]

SUBCHAPTER J. PENALTIES

§ 161.401. Penalty for Certain Transactions

Any person, seller, veteran, or appraiser who knowingly makes, utters, publishes, passes, or uses any false, fictitious, or forged paper, document, contract, affidavit, application, assignment, or other instrument in writing in connection with or pertaining to any transaction under this chapter is guilty of a felony and on conviction shall be punished by imprisonment in the state penitentiary for not less than two nor more than 10 years, or by a fine of not less than \$1,000 nor more than \$10,000, or by both.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.402. Penalty Relating to Certain Purchases, Sales, and Resales of Land

A person who knowingly files a false, fictitious, or forged paper, document, contract, affidavit, application, assignment, or other instrument in writing relating to the purchase, sale, or resale of land under this chapter is guilty of a felony and on conviction shall be punished by imprisonment in the state penitentiary for not less than two nor more than 10 years or by a fine of not less than \$1,000 nor more than \$10,000, or by both.

[Acts 1977, 65th Leg., p. 2675, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.403. Penalty for Defrauding Veteran and State

A person who defrauds a veteran of his rights and benefits under this chapter by an act of fraud, duress, deceit, coercion, or misrepresentation or a person who uses the purposes or provisions of this chapter to defraud the state or any veteran by an act of fraud, duress, coercion, misrepresentation, or deceit, is guilty of a felony, and on conviction shall

be punished by imprisonment in the state penitentiary for not less than two nor more than 10 years or by a fine of not less than \$1,000 nor more than \$10,000, or by both.

[Acts 1977, 65th Leg., p. 2675, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 162. VETERANS' HOUSING ASSISTANCE PROGRAM

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SUBCHAPTER C. BONDS

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- 162.047. Bonds as Investments and Security.
- 162.048. Taxation of Bonds.
- 162.049. Payment of Principal and Interest.
- 162.050. Constitutional Appropriations.

SUBCHAPTER A. GENERAL PROVISIONS

§ 162.001. Definitions

In this chapter:

- (1) "Board" means the Veterans' Land Board.
- (2) "Fund" means the veterans' housing assistance fund.

(3) "Home" means a dwelling within this state in which a veteran intends to reside as his principal residence.

(4) "Lending institution" means a bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution that customarily provides service or aids in the financing of mortgages on single-family residential housing which has been approved for participation in the program by the board. The term includes a holding company for any of the foregoing.

(5) "Loan" means a veterans' housing assistance loan made or acquired by the board under this chapter secured by a mortgage on a veteran's home.

(6) "Program" means the Veterans' Housing Assistance Program.

(7) "Commission" means the Veterans' Affairs Commission.

(8) "Veteran" means a person who:

(A) served not less than 90 continuous days, unless sooner discharged by reason of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States after September 16, 1940, and was discharged from military service under honorable conditions from any of those branches of the Armed Forces; and

(B) at the time of his enlistment, induction, commissioning, or drafting was a bona fide resident of this state or has resided in this state at least five years immediately before the date of filing his application for a loan; and

(C) at the time of his application for a loan under this chapter is a citizen of the United States and a bona fide resident of this state. The term includes the unmarried surviving spouse of a veteran who died in the line of duty if the deceased veteran meets the requirements in this section with the exception that the deceased veteran need not have served 90 continuous days and if the deceased veteran was a bona fide resident of the state at time of enlistment, induction, commissioning, or drafting.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

Section 2 of the 1983 Act provides:

"This Act takes effect on the adoption by the voters of the constitutional amendment proposed by S.J.R. No. 14, 68th Legislature, Regular Session, 1983. If that amendment is not approved, this Act has no effect."

S.J.R. No. 14 was approved by the voters at an election held November 8, 1983.

§ 162.002. Money and Interests Included in the Veterans' Housing Assistance Fund

(a) The veterans' housing assistance fund shall include:

(1) any interest of the board in all home mortgage loans made to veterans pursuant to this chapter including any insurance thereon or on the homes, until the principal amount together with any interest and penalties due have been received by the board;

(2) the money attributable to any bonds issued and sold by the board to provide money for the fund which shall include but shall not be limited to the proceeds from the issuance and sale of such bonds;

(3) income, rents, and any other pecuniary benefit received by the board as a result of making these loans;

(4) sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds;

(5) interest received from investments of any such money;

(6) any equitable interest in properties encumbered under this program.

(b) Money in the fund shall be deposited in the State Treasury to the credit of the fund.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.003. Administration

(a) The board shall administer the veterans' housing assistance fund and the Veterans' Housing Assistance Program in accordance with this chapter.

(b) The board shall adopt rules governing the administration of the fund and program, the making or acquiring of veterans' housing assistance loans, the criteria for approving lending institutions, the use of insurance on the loans and the homes financed under the program, as deemed appropriate by the board, as further security for the loans, the verification of occupancy of the home by the veteran as his principal residence, and the terms and conditions of any contract made with any lending institution for processing, originating, servicing, or administering the loans. In determining the terms of any contracts for the origination or servicing of loans, the board shall review the prudent lending practices prevalent in the residential mortgage lending industry and shall follow such practices to the maximum extent practical.

(c) The board shall determine the quality and type of homes to be financed under the Veterans' Housing Assistance Program.

(d) The board shall maintain a list of approved lending institutions and shall review and revise such list as necessary at least annually.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

[Sections 162.004 to 162.010 reserved for expansion]

SUBCHAPTER B. VETERANS' HOUSING ASSISTANCE PROGRAM

§ 162.011. Loans

(a) The board shall make or acquire loans with money from the veterans' housing assistance fund in accordance with this chapter and the rules adopted by the board.

(b) To qualify for a loan under this chapter, a person must be a veteran at the time he applies for the loan.

(c) A loan under this chapter may not exceed \$20,000 and the final principal payment on the loan shall be made not later than 40 years after the date of the loan, and such a loan may not previously have been granted to the same veteran under this chapter. The board in its discretion may waive this requirement for circumstances the board deems appropriate, including but not limited to veterans who financed homes with a loan under this chapter who are forced to move due to a change in employment or because their homes are condemned through no fault of the veteran.

(d) The board shall obtain insurance covering at least 50 percent of all losses anticipated in connection with veteran payment defaults on loans secured by first or second mortgages, based upon the advice of one or more qualified consultants to the board as to potential losses which may be reasonably expected on the loans as determined by analysis, including but not limited to actual experience in the residential mortgage lending industry on similar types of mortgage loans, or, in the alternative, the board shall obtain insurance which shall insure repayment of at least 50 percent of the outstanding principal amount of all loans in the event of the nonpayment of the loans by the veterans.

(e) Funds approved for disbursement under this chapter shall be forwarded directly to a lending institution.

(f) All fees to be charged to a veteran receiving a loan under this chapter must be approved by the board. The board may enter into contracts with lending institutions to assist in processing, originating, servicing, or administering loans under this chapter. Any fees and expenses incurred in connection with a loan, including the cost of insurance, may be charged to the veteran and made a part of the veteran's payments.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.012. Application

(a) A person desiring a loan under this chapter shall file an application with the commission.

(b) The commission shall determine whether or not the applicant qualifies as a veteran under the terms of this chapter and shall issue a certification to the chairman of the board stating whether or not an applicant qualifies as a veteran under the terms of this chapter.

(c) If an eligible veteran dies after filing an application with the commission, the surviving spouse may complete the transaction.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.013. Interest Rate

A loan under this chapter shall bear an interest rate fixed by the board. The board may set the interest rate to provide a margin over the rate paid by the board on its bonds issued under this chapter. The difference between the cost of the money to the board and the interest rate charged to a veteran may be used in whole or in part to defray the expense of administering the program. To assure the maximum benefit of the program to the veteran, the board shall adopt rules relative to the fees, charges, and interest rates charged by the lending institutions on the financing of the home with money other than from the fund and shall limit to the maximum extent practical such fees, charges, and interest rates to those which would be collected by the lending institution in the normal course of its residential mortgage lending business.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.014. Security for the Loan

No disbursement of funds on a loan shall be made unless the loan is secured by a mortgage, deed of trust, or other lien on the home. A mortgage retained by or a deed of trust to the board or any other lien may be a participation in a lien securing any other loan for the purchase of the property. Payments to retire the loan shall be made at times determined by the board.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.015. Initial Payment or Equity

The board may require an initial payment on a loan of not more than five percent of the loan or may require an investment in the home by the veteran in an amount not to exceed five percent of the amount of the loan.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.016. Time Limit on Transfer

(a) A home or any interest therein, against which there is a mortgage, deed of trust, or any other lien securing a loan under this chapter may not be

leased, transferred, sold, or conveyed in whole or in part until the original veteran purchaser has occupied the home as his principal residence for a period of three years from the date of the purchase of the home and complied with the terms and conditions of this chapter and the rules of the board.

(b) After the three-year period, a home may be transferred, sold, or conveyed subject to any lien securing a loan under this chapter at any time if all mature interest, principal, and taxes have been paid, the terms and conditions of this chapter and rules of the board have been met, and the approval of the board has been obtained.

(c) The board may waive the time limitation of Subsection (a) of this section upon the death, bankruptcy, financial incapacity, or divorce of the veteran or in the event a veteran is forced to move due to a change in employment or because his home is condemned through no fault of the veteran or at any other time it deems a waiver to be in the best interest of the program.

(d) In the event the requirements of Subsection (a) of this section fail to be met and the board does not waive the time limitations as provided in Subsection (c) of this section, the board may provide in its rules for the escalation of the interest rate on the loan to a higher rate of interest or the acceleration of all principal and interest on the loan or such other remedy as the board may in its discretion deem appropriate.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.017. Foreclosure and Resale

The board shall adopt rules providing for the procedures and the rules for foreclosure and resale of homes financed with a loan under this chapter.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.018. Interest Rate on Delinquent Principal and Interest

Principal and interest that become delinquent shall bear interest at a rate fixed by the board.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.019. Enforcement of Forfeiture and Protection of Rights

The board may request the attorney general to take whatever action is necessary to protect the rights of the state and the veterans' housing assistance funds in any matter concerning the program, and on a request, the attorney general shall take such action.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

[Section 162.020 to 162.030 reserved for expansion]

SUBCHAPTER C. BONDS

§ 162.031. Issuance and Sale of Bonds; Disposition of Proceeds

By appropriate action, the board may provide by resolution for the issuance and sale of negotiable bonds authorized by the constitution, and the proceeds shall be a part of the fund.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.032. Installments

The board may issue bonds in one or several installments.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.033. Interest Rate

The bonds shall bear the rate of interest prescribed by the board.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.034. Payment and Maturity of Bonds

(a) The bonds shall be payable as provided by the board and shall mature serially or otherwise not later than 40 years from the date of their issuance.

(b) The board may make the bonds redeemable before maturity at the price and under the terms and conditions fixed by the board in the resolution providing for the issuance and sale of the bonds.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.035. Form, Denomination, and Place of Payment of Bonds

The board shall determine the terms of the bonds and the form of the bonds, including the forms of interest coupons attached to the bonds, if any, and shall fix the denomination of the bonds and the place for payment of the principal of and interest on the bonds.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.036. Manner of Execution

(a) The bonds shall be executed by and on behalf of the board and the state as obligations of the state in the manner provided in Subsection (b) of this section.

(b) The bonds shall be signed by the chairman and the secretary of the board and the seal of the board shall be impressed on the bonds. In addition, the bonds shall be signed by the governor and

attested by the secretary of state with the seal of the state impressed on the bonds.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.037. Signatures and Seals

(a) The resolution authorizing the issuance of an installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals may be used in lieu of manual signatures and manually impressed seals in executing the bonds and attached coupons.

(b) Interest coupons may be signed with the facsimile signatures of the chairman and secretary of the board.

(c) If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on a coupon ceases to be an officer before the bonds are delivered, the signature shall still be valid and sufficient for all purposes as if the officer had remained in office until the delivery of the bonds.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.038. Approval by Attorney General

Before the bonds are delivered to the purchasers, the record relating to the bonds shall be examined by the attorney general. If the record demonstrates that the bonds have been issued in accordance with the constitution and this chapter, the bonds shall be approved by the attorney general.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.039. Registration with Comptroller

After the bonds are approved by the attorney general, they shall be registered in the office of the comptroller of public accounts.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.040. Validity of Bonds

(a) After the bonds are approved by the attorney general and registered with the comptroller of public accounts, they shall be held as valid and binding general obligations of the state in every action, suit, or proceeding in which their validity is or may be brought into question.

(b) In each action brought to enforce collection of the bonds or rights incident to the bonds, the certificate of approval by the attorney general or certified copy of that certificate shall be admitted and received in evidence as to the validity of the bonds.

(c) Only forgery or fraud may be offered as a challenge to the validity of the bonds.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.041. Bonds as Negotiable Instruments

Bonds issued under this chapter have and are declared to have all qualities and incidents of negotiable instruments under the laws of this state.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.042. Notice for Bids on Bonds

If the board authorizes the issuance of a series of bonds and decides to call for bids, it shall publish an appropriate notice at least one time not less than 10 days before the date of the sale in a recognized financial journal of general circulation.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.043. Security for Bid

The board may require bidders to accompany their bids with exchange or bank cashier's checks in an amount considered adequate by the board to be a forfeit guaranteeing the acceptance and payment for bonds covered by the bids and accepted by the board.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.044. Sale of Bonds

The bonds may be sold at a price and on terms determined by the board after competitive bidding to the highest and best bidder provided the bonds are sold for not less than par value and accrued interest.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.045. Replacement Bonds

The board may provide for replacement of bonds that are mutilated, lost, or destroyed.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.046. Refunding Bonds

The board may provide by resolution for issuance of refunding bonds for the purpose of refunding outstanding bonds issued under this chapter together with accrued interest on the bonds.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]

For effective date of the 1983 Act, see note under § 162.001.

§ 162.047. Bonds as Investments and Security

(a) Bonds issued under Article III, Section 49-b-1, of the Texas Constitution and this chapter are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and the sinking funds of cities, towns,

villages, counties, school districts, and other political subdivisions and public agencies of the state.

(b) The bonds are legal and sufficient security for the deposits in the amount of the par value of the bonds.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]
For effective date of the 1983 Act, see note under § 162.001.

§ 162.048. Taxation of Bonds

The bonds are exempt from any tax by the state and by cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]
For effective date of the 1983 Act, see note under § 162.001.

§ 162.049. Payment of Principal and Interest

The State Treasurer shall pay the principal on bonds as they mature and the interest as it becomes payable. Payments shall be made at the place of payment designated on the bonds.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]
For effective date of the 1983 Act, see note under § 162.001.

§ 162.050. Constitutional Appropriations

(a) If, during the existence of the fund or during the time any bonds are payable from the fund, the board determines that there will not be sufficient money in the fund during the following biennium to pay principal of or interest on the bonds or both principal and interest that are to come due during the following biennium, the comptroller of public accounts shall transfer to the fund the first money coming into the State Treasury not otherwise appropriated by the constitution in amounts sufficient to pay the obligations.

(b) The money appropriated shall be used to pay the obligations only if at the time the principal or interest or both actually become due there is not sufficient money in the fund to pay the amount due.

[Acts 1983, 68th Leg., p. 547, ch. 115, § 1.]
For effective date of the 1983 Act, see note under § 162.001.

TITLE 8. ACQUISITION OF RESOURCES

CHAPTER 181. TEXAS CONSERVATION FOUNDATION

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SUBCHAPTER A. GENERAL PROVISIONS

§ 181.001. Purpose

The Texas Conservation Foundation is established to encourage private gifts of real and personal property or income from or other interest in real and personal property, to survey and collect data concerning the natural resources and areas of Texas, to apply for, receive, and make proper use of federal grants and funds as well as private funds, to create a register of Texas's unique natural areas and resources, and to make timely acquisition by purchase or option of any property for the benefit of or in connection with the Texas state system of historic sites, parks, refuges, wildlife preserves, wildlife management areas, and scientific and recreational areas, and thereby further the conservation of natural, scenic, historical, scientific, educational, inspirational, wildlife, or recreational resources for future generations of Americans.

[Acts 1977, 65th Leg., p. 2676, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

Application of Sunset Act

Acts 1977, 65th Leg., p. 1844, ch. 735, § 2.086, purports to add § 1a to Civil Statutes, art. 6145-7, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(4). As so added, § 1a reads:

"The Texas Conservation Foundation is subject to the Texas Sunset Act [Civil Statutes, art. 5429k]; and unless continued in existence as provided by that Act the foundation is abolished, and this Act expires effective September 1, 1985."

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

§ 181.002. Definitions

In this chapter:

- (1) "Foundation" means the Texas Conservation Foundation.
- (2) "Board" means the board of the Texas Conservation Foundation.
- (3) "Member" means a member of the board who has voting rights.

[Acts 1977, 65th Leg., p. 2676, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1647, ch. 688, § 4, eff. June 13, 1979.]

[Sections 181.003 to 181.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 181.011. Texas Conservation Foundation

A charitable and nonprofit corporation known as the Texas Conservation Foundation is established to perform the acts and have the duties and purposes in Section 181.001 of this code and to accept and administer gifts and otherwise to acquire and hold property or interests in property in accordance with the provisions of this code.

[Acts 1977, 65th Leg., p. 2676, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

§ 181.012. Members of Board

(a) The foundation shall be governed by a board that shall have as members:

- (1) the executive director of the Parks and Wildlife Department;
- (2) the Commissioner of the General Land Office;
- (3) the executive director of the Texas Historical Commission; and
- (4) three interested citizens of the State of Texas, one appointed by the governor, one appointed by the speaker of the house of representatives and one appointed by the lieutenant governor.

(b) Membership on the board is not considered to be an office within the meaning of the statutes and the Texas Constitution.

(c) Each member who is named in Subdivision (1), (2), or (3) of Subsection (a) of this section may designate in writing from time to time a representative from his staff to serve by proxy as a member

of the board, thereby vesting full authority of each member in his representative.

(d) No state funds for property maintenance, operations, or development shall be expended by an agency of the state pursuant to the provisions of this Act without express legislative authorization either through the General Appropriations Act or separate statute.

[Acts 1977, 65th Leg., p. 2676, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

§ 181.013. Terms of Office

Each citizen member shall serve at the pleasure of the official who appointed him. The initial terms of the appointed members shall be staggered so that the terms of one-third of the initial members will expire every two years.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

§ 181.014. Board Officers

(a) The governor shall annually select the chairman from among the board membership.

(b) The executive director of the Parks and Wildlife Department shall be secretary of the board.

(c) The governor may from time to time appoint a variable number of advisors to the board, who shall have no vote nor receive any compensation but who shall be persons of competence who have a genuine interest in furthering the goals of the foundation. The advisors shall serve at the pleasure of the governor.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

§ 181.015. Board Meetings

(a) The board shall meet at the call of the chairman.

(b) There shall be at least one meeting each year.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 181.016. Quorum

A majority of the members of the board serving at any one time constitutes a quorum for the transaction of business.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 181.017. Compensation; Expenses

(a) No compensation shall be paid to the members of the board for their services as members.

(b) The members of the board shall be reimbursed for actual and necessary travel and subsist-

ence expenses incurred by them in the performance of their duties as members of the board. Reimbursement shall be paid from the foundation funds available to the board for this purpose.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 181.018. Suits; Liability

(a) The foundation has perpetual succession with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and be sued in its own name.

(b) The members of the board are not personally liable, except for malfeasance, and are granted immunity from civil liability while performing their official functions.

(c) The State of Texas shall not be liable for any debts, defaults, acts, or omissions of the foundation.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1647, ch. 688, § 2, eff. June 13, 1979.]

§ 181.019. Seal

The foundation shall have an official seal, which shall be judicially recognized.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 181.020 to 181.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 181.051. In General

The foundation may:

- (1) contract in its own name with any governmental agency or private person or entity;
- (2) act through agents and employees;
- (3) execute and acknowledge all instruments;
- (4) contract for necessary services;
- (5) maintain confidential files, not subject to the provisions of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), regarding details of the location, ownership, quantity, and identifying data related to any archeological, paleontological, or geological site or any species of plants or wildlife that are rare, threatened, or endangered or subject to abuse by collectors. No privately owned property may be listed in such files unless and until the owner or a majority of the owners if the property is owned by more than two people gives written consent to allow its inclusion. Nothing contained herein shall be construed as legislative condonance of unauthorized entry onto private property; and

(6) do any lawful acts necessary or appropriate to its statutory purposes.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

§ 181.052. Rules and Regulations

The board may adopt bylaws and rules necessary for the administration of its functions in carrying out the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 181.053. Annual Report

As soon as practicable after the end of each fiscal year, the foundation shall transmit to the legislature and the governor an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, property, and investments.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

§ 181.054. Gifts, Devises, Trusts, and Bequests

(a) The foundation may accept, receive, solicit, hold, administer, and use gifts, devises, trusts, or bequests, either absolutely or in trust, of real or personal property or income from or other interest in real or personal property for the benefit of or in connection with the Texas system of natural areas, parks, refuges, scientific, historical, prehistoric, educational, inspirational, wildlife management, or recreational areas and sites.

(b) An interest in real property includes easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historical, archeological, geological, scientific, educational, inspirational, wildlife, or recreational resources anywhere in the State of Texas.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

§ 181.055. Gifts, Devises, and Bequests Subject to Restriction or Beneficial Interest

The foundation may accept a gift, devise, or bequest that is encumbered, restricted, or subject to a beneficial interest of private persons or corporations as long as any current or future use or interest in the gift, devise, or bequest is for the benefit of the Texas system of natural areas, parks, refuges, and scenic, wildlife preservation, historical, archeological, geological, wildlife management, or scientific areas.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

§ 181.056. Purchase or Other Acquisition of Land

(a) To the extent that funds or credit are available to it for this purpose, the foundation may enter into and exercise purchase options, buy by outright purchase, or contract for, trade for, or otherwise acquire in the title and name of the foundation any land or interest in land that the foundation considers significant and necessary for the purposes of the foundation.

(b) Unless specially restricted by the instrument of transfer, the foundation may hold this land or interest in land in undeveloped and protective holdings if the foundation considers such holding necessary for the accomplishment of its statutory purposes.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

§ 181.057. Management and Disposition of Property or Income

(a) Except as otherwise limited or required by the instrument of transfer, the foundation may sell, lease, trade, invest, reinvest, retain, or otherwise dispose of or deal with any property or income from any property in a manner the board may from time to time determine.

(b) The foundation shall not engage in any business, nor shall it make any investment that may not lawfully be made under the Texas Trust Code (Subtitle B, Title 9, Property Code),¹ except that the foundation may make any investment that is authorized by the instrument of transfer and may retain, manage, and operate any property accepted by the foundation.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1647, ch. 688, § 3, eff. June 13, 1979; Acts 1979, 66th Leg., p. 1647, ch. 688, § 3, eff. June 13, 1979; Acts 1983, 68th Leg., p. 3392, ch. 567, art. 2, § 7, eff. Jan. 1, 1984.]

¹ Property Code, § 111.001 et seq.

§ 181.058. Private Benefit or Profit Prohibited

No property, income, or interest in property that passes to the foundation may enure thereafter to the private benefit or profit of any individual, firm, or corporation.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 181.059. Services and Facilities of Other Agencies

The foundation may use the services and facilities of the Parks and Wildlife Department, the Texas Historical Commission, and the office of the attorney general. These services and facilities may be

made available on request to the extent practicable without reimbursement.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 181.060. Eminent Domain

None of the provisions of this chapter confer on the foundation the right of eminent domain.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 181.061 to 181.100 reserved for expansion]

SUBCHAPTER D. TAX EXEMPTIONS

§ 181.101. Exempt Gifts or Transfers

Contributions, gifts, and other transfers made to or for the use of the foundation are contributions, gifts, or transfers to or for the use of the State of Texas for scientific, educational, and benevolent purposes and shall be made without tax to the transferor.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 181.102. Tax on Beneficial Interest

If a beneficial interest is retained, it shall be taxable to the grantor to the extent of the fair market value of the beneficial interest by the State of Texas or any taxing authority created by the laws of the State of Texas.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 181.103. Exemption of Foundation

(a) The foundation and any income or property received or owned by it, and all transactions relating to the income or property received or owned by the foundation, are exempt from all forms of taxation.

(b) In the discretion of the board, the foundation may contribute toward the costs of local government in amounts not to exceed those that it would be obligated to pay the government if it were not exempt from taxation by virtue of Subsection (a) of this section or by virtue of its being a charitable and nonprofit corporation. The foundation may agree to contribute with respect to property transferred to it and the income derived from property transferred to it if the agreement is a condition of the transfer.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 182. TEXAS HISTORICAL RESOURCES DEVELOPMENT COUNCIL

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

182.001. Definition.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 182.011. Creation of Council.
- 182.012. Council Membership.
- 182.013. Compensation.
- 182.014. Council Officers.
- 182.015. Quorum.
- 182.016. Council Meetings.
- 182.017. Use and Provision of Services of Certain Agencies.

SUBCHAPTER C. POWERS AND DUTIES

- 182.041. Communication Between Agencies.
- 182.042. Study.
- 182.043. Soliciting and Considering Suggestions.
- 182.044. Recommendations.
- 182.045. Semiannual Reports.

SUBCHAPTER A. GENERAL PROVISIONS

§ 182.001. Definition

In this chapter, "council" means the Texas Historical Resources Development Council.

[Acts 1977, 65th Leg., p. 2680, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Application of Sunset Act

Acts 1977, 65th Leg., p. 1843, ch. 735, § 2.081, purports to add § 1a to Civil Statutes, art. 6145-10, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(4). As so added, § 1a reads:

"The Texas Historical Resources Development Council is subject to the Texas Sunset Act [Civil Statutes, art. 5429k]; and unless continued in existence as provided by that Act the council is abolished, and this Act expires effective September 1, 1983."

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

[Sections 182.002 to 182.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 182.011. Creation of Council

To encourage the best use of the unique historical resources of this state, the Texas Historical Resources Development Council is created.

[Acts 1977, 65th Leg., p. 2680, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.012. Council Membership

(a) The council consists of the following ex officio members:

- (1) the executive director of the Texas Historical Commission;
- (2) the director and librarian of the Texas State Library;
- (3) the executive director of the Texas Tourist Development Agency;
- (4) the director of the Travel and Information Division of the State Department of Highways and Public Transportation;
- (5) the director of the Park Services Division of the Parks and Wildlife Department; and
- (6) the chairman of the State Antiquities Committee.

(b) Membership on the council shall not be considered to be an office within the meaning of the statutes and Constitution of the State of Texas.

[Acts 1977, 65th Leg., p. 2680, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.013. Compensation

No compensation may be paid to the members of the council for their services as members.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.014. Council Officers

The executive director of the Texas Historical Commission is chairman of the council, and the director and librarian of the Texas State Library is the secretary.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.015. Quorum

A majority of the members of the council constitute a quorum authorized to transact business of the council.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.016. Council Meetings

- (a) The council meets at least four times a year.
- (b) Additional meetings may be held on the call of the chairman or on written request of any two members of the council.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.017. Use and Provision of Services of Certain Agencies

The council may use the services and facilities of the Texas Historical Commission, the Texas State Library and Historical Commission, the Texas Tourist Development Agency, the State Department of

Highways and Public Transportation, the Parks and Wildlife Department, and the State Antiquities Committee, and these services and facilities may be made available on request to the extent practicable without reimbursement for them.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 182.018 to 182.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 182.041. Communication Between Agencies

The council shall establish communication between the Texas Historical Commission, the Texas State Library and Historical Commission, the Texas Tourist Development Agency, the State Department of Highways and Public Transportation, the Parks and Wildlife Department, and the State Antiquities Committee in order to coordinate the efforts of these agencies to develop and publicize the historical resources of this state.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.042. Study

The council shall make a continuous study of the means that state agencies and private promotional and historical organizations in Texas may employ to develop and publicize the historical resources of this state.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.043. Soliciting and Considering Suggestions

The council shall solicit and consider suggestions from state officials, interested private citizens, and private promotional and historical organizations in Texas for improving the methods employed to develop and publicize the historical resources of this state.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.044. Recommendations

The council shall make recommendations for effective methods that may be used by state agencies and private promotional and historical organizations in Texas to develop and publicize the historical resources of this state.

[Acts 1977, 65th Leg., p. 2682, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.045. Semiannual Reports

The council shall make a complete and detailed report semiannually of all of its proceedings, findings, and recommendations held or made since the

last report, this report to be made to the governor and to the executive director of the Texas Legislative Council.

[Acts 1977, 65th Leg., p. 2682, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 183. CONSERVATION EASEMENTS

Sec.

- 183.001. Definitions.
- 183.002. Creation, Conveyances, Acceptances, and Duration.
- 183.003. Judicial Actions.
- 183.004. Validity.
- 183.005. Applicability.

§ 183.001. Definitions.

In this chapter:

(1) "Conservation easement" means a nonpossessory interest of a holder in real property that imposes limitations or affirmative obligations designed to:

(A) retain or protect natural, scenic, or open-space values of real property or assure its availability for agricultural, forest, recreational, or open-space use;

(B) protect natural resources;

(C) maintain or enhance air or water quality;

or

(D) preserve the historical, architectural, archaeological, or cultural aspects of real property.

(2) "Holder" means:

(A) a governmental body empowered to hold an interest in real property under the laws of this state or the United States; or

(B) a charitable corporation, charitable association, or charitable trust created or empowered to:

(i) retain or protect the natural, scenic, or open-space values of real property;

(ii) assure the availability of real property for agricultural, forest, recreational, or open-space use;

(iii) protect natural resources;

(iv) maintain or enhance air or water quality; or

(v) preserve the historical, architectural, archaeological, or cultural aspects of real property.

(3) "Third-party right of enforcement" means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, charitable corporation, charitable association, or charitable trust that is eligible to be a holder but is not a holder.

(4) "Servient estate" means the real property burdened by the conservation easement.

[Acts 1983, 68th Leg., p. 2438, ch. 434, § 1, eff. Sept. 1, 1983.]

§ 183.002. Creation, Conveyances, Acceptances, and Duration

(a) Except as otherwise provided in this chapter, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements.

(b) A right or duty in favor of or against a holder and a right in favor of a person having a third-party right of enforcement does not arise under a conservation easement before its acceptance by the holder and the recordation of the acceptance.

(c) Except as provided by Section 183.003(b) of this code, a conservation easement is unlimited in duration unless the instrument creating it makes some other provision.

(d) An interest that exists in real property at the time a conservation easement is created is not impaired unless the owner of the interest is a party to the conservation easement or consents to it.

(e) A conservation easement must be created in writing, acknowledged and recorded in the deed records of the county in which the servient estate is located, and must include a legal description of the real property which constitutes the servient estate.

(f) If land that has been subject to a conservation easement is no longer subject to such easement, an additional tax is imposed on the land equal to the difference, if any, between the taxes imposed on the land for each of the five years preceding the year in which the easement terminates and the taxes that would have been imposed had the land not been subject to a conservation easement in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

[Acts 1983, 68th Leg., p. 2438, ch. 434, § 1, eff. Sept. 1, 1983.]

§ 183.003. Judicial Actions

(a) An action affecting a conservation easement may be brought by:

- (1) an owner of an interest in the real property burdened by the easement;
- (2) a holder of the easement;
- (3) a person having a third-party right of enforcement; or
- (4) a person authorized by some other law.

(b) This chapter does not affect the power of a court to modify or terminate a conservation ease-

ment in accordance with the principles of law and equity.

[Acts 1983, 68th Leg., p. 2438, ch. 434, § 1, eff. Sept. 1, 1983.]

§ 183.004. Validity

A conservation easement is valid even though:

- (1) it is not appurtenant to an interest in real property;
- (2) it can be or has been assigned to another holder;
- (3) it is not of a character that has been recognized traditionally at common law;
- (4) it imposes a negative burden;
- (5) it imposes affirmative obligations on the owner of an interest in the burdened property or on the holder;
- (6) the benefit does not touch or concern real property; or
- (7) there is no privity of estate or of contract.

[Acts 1983, 68th Leg., p. 2438, ch. 434, § 1, eff. Sept. 1, 1983.]

§ 183.005. Applicability

(a) This chapter applies to any interest created on or after September 1, 1983, that complies with this chapter, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise.

(b) This chapter applies to any interest created before September 1, 1983, if it would have been enforceable had it been created on or after September 1, 1983, unless retroactive application contravenes the constitution or laws of this state or the United States.

(c) This chapter does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other law of this state.

[Acts 1983, 68th Leg., p. 2438, ch. 434, § 1, eff. Sept. 1, 1983.]

TITLE 9. HERITAGE

CHAPTER 191. ANTIQUITIES COMMITTEE

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- 191.001. Title.
 - 191.002. Declaration of Public Policy.
 - 191.003. Definitions.
 - 191.004. Certain Records Not Public Information.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 191.011. Creation and Membership of Committee.
- 191.012. Qualifications for Citizen Members.
- 191.013. Appointment of Citizen Members.
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- 191.015. Per Diem and Expenses for Citizen Members.
- 191.016. Chairman of Committee.
- 191.017. Quorum.
- 191.018. Employees of Committee.
- 191.019. Records of Committee.
- 191.020. Removal of Citizen Committee Member.
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- 191.051. In General.
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- 191.174. Assistance From State Agencies and Law Enforcement Officers.

SUBCHAPTER A. GENERAL PROVISIONS

§ 191.001. Title

This chapter may be cited as the Antiquities Code of Texas.

[Acts 1977, 65th Leg., p. 2683, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.002. Declaration of Public Policy

It is the public policy and in the public interest of the State of Texas to locate, protect, and preserve all sites, objects, buildings, pre-twentieth century shipwrecks, and locations of historical, archeologi-

cal, educational, or scientific interest, including but not limited to prehistoric and historical American Indian or aboriginal campsites, dwellings, and habitation sites, archeological sites of every character, treasure imbedded in the earth, sunken or abandoned ships and wrecks of the sea or any part of their contents, maps, records, documents, books, artifacts, and implements of culture in any way related to the inhabitants, pre-history, history, natural history, government, or culture in, on, or under any of the land in the State of Texas, including the tidelands, submerged land, and the bed of the sea within the jurisdiction of the State of Texas.

[Acts 1977, 65th Leg., p. 2683, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.003. Definitions

In this chapter:

(1) "Committee" means the Antiquities Committee.

(2) "Landmark" means a state archeological landmark.

(3) "State agency" means a department, commission, board, office, or other agency that is a part of state government and that is created by the constitution or a statute of this state. The term includes an institution of higher education as defined by Section 61.003, Texas Education Code.

[Acts 1977, 65th Leg., p. 2683, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2001, ch. 364, § 1, eff. Sept. 1, 1983.]

§ 191.004. Certain Records Not Public Information

(a) Information specifying the location of any site or item declared to be a state archeological landmark under Subchapter D of this chapter¹ is not public information.

(b) Information specifying the location or nature of an activity covered by a permit or an application for a permit under this chapter is not public information.

(c) Information specifying details of a survey to locate state archeological landmarks under this chapter is not public information.

[Acts 1981, 67th Leg., p. 959, ch. 365, § 1, eff. June 10, 1981.]

¹ Section 191.091 et seq.

[Sections 191.005 to 191.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 191.011. Creation and Membership of Committee

(a) There is created an Antiquities Committee, which is composed of nine members, including the

Chairman of the Texas Historical Commission or a member of the commission designated by the Chairman, the Director of the Parks and Wildlife Department, the Commissioner of the General Land Office, the State Archeologist, the State Engineer-Director of the State Department of Highways and Public Transportation, the Executive Director of the Texas Department of Water Resources, and the following citizen members: one professional archeologist from a recognized museum or institution of higher learning in Texas; one professional historian with expertise in Texas history and culture, and one professional museum director of a major, state-funded museum that has significant research facilities.

(b) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the committee may not serve as a member of the committee or act as the general counsel to the committee.

(c) Appointments to the committee shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2001, ch. 364, § 2, eff. Sept. 1, 1983.]

Section 14 of the 1983 amendatory act provides:

"As soon as possible after the effective date of this Act, the governor shall appoint to the committee a professional museum director of a major, state-funded museum that has significant research facilities. The appointee shall serve a term expiring January 31, 1985, when the governor may make new appointments of citizen members of the committee."

§ 191.012. Qualifications for Citizen Members

Each citizen member of the committee must be a resident of the State of Texas.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.013. Appointment of Citizen Members

Each citizen member of the committee shall be appointed by the governor with the advice and consent of the senate.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.014. Term of Citizen Members

Each citizen member of the committee shall serve for a term of two years expiring on January 31 of each odd-numbered year.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2002, ch. 364, § 3, eff. Sept. 1, 1983.]

§ 191.015. Per Diem and Expenses for Citizen Members

Each citizen member of the committee is entitled to receive a per diem allowance for each day spent in the performance of his duties and reimbursement for actual and necessary travel expenses incurred in the performance of his duties, as provided by the General Appropriations Act.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.016. Chairman of Committee

The committee shall select one of its members as chairman.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.017. Quorum

Five members of the committee constitute a quorum for conducting business.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2002, ch. 364, § 4, eff. Sept. 1, 1983.]

§ 191.018. Employees of Committee

(a) The committee may employ the personnel necessary to perform its duties to the extent the employment is provided for by the General Appropriations Act.

(b) Employees of the committee are considered to be employees of the Texas Historical Commission.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.019. Records of Committee

The committee shall keep a record of its proceedings which shall be subject to inspection by any citizen of Texas desiring to make an examination in the presence of a member of the committee or an authorized employee of the committee.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.020. Removal of Citizen Committee Members

(a) It is a ground for removal of a citizen member from the committee if the member:

(1) does not have at the time of appointment the qualifications required by Sections 191.011 and 191.012 of this code for appointment to the committee; or

(2) does not maintain during the service on the committee the qualifications required by Sections 191.011 and 191.012 of this code.

(b) The validity of an action of the committee is not affected by the fact that it was taken when a

ground for removal of a member of the committee existed.

[Acts 1983, 68th Leg., p. 2003, ch. 364, § 6, eff. Sept. 1, 1983.]

§ 191.021. Compliance with Open Meetings Act and Administrative Procedure and Texas Register Act

(a) The committee is subject to the open meetings act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) If an institution of higher education notifies the committee in a timely manner (as established by the committee's rules) that it protests the proposed designation of a building under its control as a landmark, the matter becomes a contested case under the provisions of Sections 12 through 20 of the Administrative Procedure and Texas Register Act. In the conduct of proceedings under the Administrative Procedure and Texas Register Act, both the hearing officer in his or her recommendations to the committee and the committee in its determinations of findings of fact and conclusions of law shall consider, in addition to such other objective criteria as the committee may establish pursuant to Section 191.091 of this chapter:

(1) that the primary mission of institutions of higher education is the provision of educational services to the state's citizens;

(2) that the authority for expenditure of the portion of the state's resources allocated to institutions of higher education for construction and repair purposes is entrusted to the governing boards of institutions of higher education for the purpose of the furtherance of the primary mission of the respective institutions of higher education;

(3) whether the benefit to the state from landmark designation outweighs the potential inflexibility of use that may be a consequence of the designation; and

(4) whether the cost of remodeling and/or restoration that might be required under the permit procedures of the committee if the building were designated as a landmark may be so substantially greater than remodeling under procedures established by law for the review of remodeling projects for higher education buildings not so designated as to impair the proper use of funds designated by the state for educational purposes at the institution.

(c) If an institution of higher education notifies the committee in a timely manner (as established by the committee's rules) that it protests the terms of a permit proposed to be granted to an institution of higher education under this chapter, the matter becomes a contested case under the provisions of

Sections 12 through 20 of the Administrative Procedure and the Texas Register Act. The hearing officer in his or her recommendations to the committee and the committee in its determination of findings of fact and conclusions of law shall consider:

(1) that the primary mission of institutions of higher education is the provision of educational services to the state's citizens;

(2) that the authority for expenditure of the portion of the state's resources allocated to institutions of higher education for construction and repair purposes is entrusted to the governing boards of institutions of higher education for the purpose of the furtherance of the primary mission of the respective institutions of higher education;

(3) whether the legislature has provided extra funds that may be required to implement any proposed requirements;

(4) the effect of any proposed requirements on maintenance costs;

(5) the effect of any proposed requirements on energy costs; and

(6) the appropriateness of any proposed permit requirements to the uses to which a public building has been or will be dedicated by the governing board of the institution of higher education.

(d) Weighing the criteria set forth in Subsections (b) and (c) of this section against the criteria it adopts pursuant to Section 191.092 of this chapter and such criteria as it may adopt with regard to permit requirements, the committee shall designate a building under the control of an institution of higher education as a landmark or include a requirement in a permit only if the record before the committee establishes by clear and convincing evidence that such designation or inclusion would be in the public interest.

[Acts 1983, 68th Leg., p. 2003, ch. 364, § 6, eff. Sept. 1, 1983.]

§ 191.022. Audits

The State Auditor shall audit the financial transactions of the committee during each fiscal year.

[Acts 1983, 68th Leg., p. 2003, ch. 364, § 6, eff. Sept. 1, 1983.]

§ 191.023. Application of Sunset Act

The Antiquities Committee is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the committee is abolished effective September 1, 1995.

[Acts 1983, 68th Leg., p. 2003, ch. 364, § 6, eff. Sept. 1, 1983.]

[Sections 191.024 to 191.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 191.051. In General

(a) The committee is the legal custodian of all items described in this chapter that have been recovered and retained by the State of Texas.

(b) The committee shall:

(1) maintain an inventory of the items recovered and retained by the State of Texas, showing the description and depository of them;

(2) determine the site of and designate landmarks and remove from the designation certain sites, as provided in Subchapter D of this chapter;¹

(3) contract or otherwise provide for discovery operations and scientific investigations under the provisions of Section 191.053 of this code;

(4) consider the requests for and issue the permits provided for in Section 191.054 of this code;

(5) prepare and make available to the general public and appropriate state agencies information of consumer interest describing the functions of the committee and the procedures by which complaints are filed with and resolved by the committee; and

(6) protect and preserve the archeological resources of Texas.

[Acts 1977, 65th Leg., p. 2685, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2002, ch. 364, § 5, eff. Sept. 1, 1983.]

¹ Section 191.091 et seq.

§ 191.052. Rules

The committee may promulgate rules and require contract or permit conditions to reasonably effect the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2685, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.053. Contract for Discovery and Salvage

(a) The committee may contract with other state agencies or institutions and with qualified private institutions, corporations, or individuals for the discovery and scientific investigation of sunken or abandoned ships or wrecks of the sea, or any part of the contents of them, or treasure imbedded in the earth.

(b) The contract shall:

(1) be on a form approved by the attorney general;

(2) specify the location, nature of the activity, and the time period covered by the contract; and

(3) provide for the termination of any right in the investigator or permittee under the contract

on the violation of any of the terms of the contract.

(c) The executed contract shall be recorded by the person, firm, or corporation obtaining the contract in the office of the county clerk in the county or counties in which the operations are to be conducted prior to the commencement of the operation.

(d) Title to all objects recovered is retained by the State of Texas unless and until it is released by the committee.

[Acts 1977, 65th Leg., p. 2685, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2006, ch. 364, § 7, eff. Sept. 1, 1983.]

Section 15 of the 1983 amendatory act provides:

"The change in law made by this Act in the terms of a contract or permit issued under Section 191.053 or 191.054, Natural Resources Code, applies only to a contract executed or permit issued on or after the effective date of this Act. A contract executed or permit issued before the effective date of this Act is subject to the terms provided by law at the time the contract was executed or permit issued, and the former law is continued in effect for that purpose."

§ 191.054. Permit for Taking, Excavation, Restoration, or Study

(a) The committee may issue a permit to other state agencies or institutions or to qualified private institutions, companies, or individuals for the taking, excavation, or restoration of, or the conduct of scientific or educational studies at, in, or on landmarks, if it is the opinion of the committee that the permit is in the best interest of the State of Texas.

(b) Restoration shall be defined as any rehabilitation of a landmark excepting normal maintenance or alterations to nonpublic interior spaces.

(c) The permit shall:

(1) be on a form approved by the attorney general;

(2) specify the location, nature of the activity, and the time period covered by the permit; and

(3) provide for the termination of any right in the investigator or permittee under the permit on the violation of any of the terms of the permit.

[Acts 1977, 65th Leg., p. 2685, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2006, ch. 364, § 7, eff. Sept. 1, 1983.]

Section 15 of the 1983 amendatory act provides:

"The change in law made by this Act in the terms of a contract or permit issued under Section 191.053 or 191.054, Natural Resources Code, applies only to a contract executed or permit issued on or after the effective date of this Act. A contract executed or permit issued before the effective date of this Act is subject to the terms provided by law at the time the contract was executed or permit issued, and the former law is continued in effect for that purpose."

§ 191.055. Supervision

All scientific investigations or recovery operations conducted under the contract provisions in Section 191.053 of this code and all operations conducted

under permits or contracts set out in Section 191-054 of this code must be carried out:

- (1) under the general supervision of the committee;
- (2) in accordance with reasonable rules adopted by the committee; and
- (3) in such manner that the maximum amount of historic, scientific, archeological, and educational information may be recovered and preserved in addition to the physical recovery of items.

[Acts 1977, 65th Leg., p. 2686, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2002, ch. 364, § 7, eff. Sept. 1, 1983.]

§ 191.056. Acceptance of Gifts

The committee may accept gifts, grants, devises, or bequests of money, securities, or property to be used in the pursuance of its activities and the performance of its duties.

[Acts 1977, 65th Leg., p. 2686, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2006, ch. 364, § 7, eff. Sept. 1, 1983.]

§ 191.057. Restoration for Private Parties

The committee may restore antiquities for private parties under rules promulgated by the committee. All real and administrative costs incurred in the restoration shall be paid by the private party.

[Acts 1977, 65th Leg., p. 2686, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.058. Display of Artifacts

(a) As far as is consistent with the public policy of this chapter, the committee, on a majority vote, may arrange or contract with other state agencies or institutions, incorporated cities, and qualified private institutions, corporations, or individuals for public display of artifacts and other items in its custody through permanent exhibits established in the locality or region in which the artifacts were discovered or recovered. The committee, on a majority vote, may also arrange or contract with these same persons and groups for portable or mobile displays.

(b) The committee is the legal custodian of the items described in this chapter and shall adopt appropriate rules, terms, and conditions to assure appropriate security, qualification of personnel, insurance, facilities for preservation, restoration, and display of the items loaned under the contracts.

(c) Arrangements for curation of artifacts, data, and other materials recovered under Texas Antiquities Committee permits are specified in the body of the permit. Should a state agency lack the facilities or for any reason be unable to curate or provide responsible storage for such artifacts, data, or other

materials, the Texas Antiquities Committee will arrange for curation at a suitable institution.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2008, ch. 364, § 8, eff. Sept. 1, 1983.]

§ 191.059. Complaints

(a) The committee shall keep an information file about each complaint filed with the committee.

(b) If a written complaint is filed with the committee, the committee, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint.

[Acts 1983, 68th Leg., p. 2009, ch. 364, § 9, eff. Sept. 1, 1983.]

[Sections 191.060 to 191.090 reserved for expansion]

SUBCHAPTER D. STATE ARCHEOLOGICAL LANDMARKS

§ 191.091. Ships, Wrecks of the Sea, and Treasure Imbedded in Earth

Sunken or abandoned pre-twentieth century ships and wrecks of the sea, and any part or the contents of them, and all treasure imbedded in the earth, located in, on, or under the surface of land belonging to the State of Texas, including its tidelands, submerged land, and the beds of its rivers and the sea within jurisdiction of the State of Texas, are declared to be state archeological landmarks.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.092. Other Sites or Articles

(a) Sites, objects, buildings, artifacts, implements, and locations of historical, archeological, scientific, or educational interest, including those pertaining to prehistoric and historical American Indians or aboriginal campsites, dwellings, and habitation sites, their artifacts and implements of culture, as well as archeological sites of every character that are located in, on, or under the surface of any land belonging to the State of Texas or to any county, city, or political subdivision of the state are state archeological landmarks.

(b) For the purposes of this section, a structure or a building has historical interest if the structure or building:

- (1) was the site of an event that has significance in the history of the United States or the State of Texas;
- (2) was significantly associated with the life of a famous person;
- (3) was significantly associated with an event that symbolizes an important principle or ideal;

(4) represents a distinctive architectural type and has value as an example of a period, style, or construction technique; or

(5) is important as part of the heritage of a religious organization, ethnic group, or local society.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 193, ch. 90, § 1, eff. Aug. 31, 1981.]

§ 191.093. Prerequisites to Taking, Altering, Damaging, Destroying, Salvaging, or Excavating Certain Landmarks

Landmarks under Section 191.091 or 191.092 of this code are the sole property of the State of Texas and may not be taken, altered, damaged, destroyed, salvaged, or excavated without a contract with or permit from the committee.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 193, ch. 90, § 2, eff. Aug. 31, 1981.]

§ 191.094. Designating a Landmark on Private Land

(a) Any site located on private land which is determined by majority vote of the committee to be of sufficient archeological, scientific, or historical significance to scientific study, interest, or public representation of the aboriginal or historical past of Texas may be designated a state archeological landmark by the committee.

(b) No site may be designated on private land without the written consent of the landowner or landowners in recordable form sufficiently describing the site so that it may be located on the ground.

(c) On designation, the consent of the landowner shall be recorded in the deed records of the county in which the land is located.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.095. Permit for Landmark on Private Land

All sites or items of archeological, scientific, or historical interest located on private land in the State of Texas in areas designated as landmarks, as provided in Section 191.094 of this code, and landmarks under Section 191.092 of this code, may not be taken, altered, damaged, destroyed, salvaged, or excavated without a permit from the committee or in violation of the terms of the permit.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.096. Marking Landmark on Private Land

Any site on private land which is designated a landmark shall be marked by at least one marker

bearing the words "State Archeological Landmark" for each five acres of area.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.097. Removing Designation as Landmark

(a) Any landmark on public or private land may be determined by majority vote of the committee to be of no further historical, archeological, educational, or scientific value, or not of sufficient value to warrant its further classification as a landmark, and on this determination may be removed from the designation as a landmark.

(b) On removal of the designation on private land which was designated by instrument of record, the committee may execute and record in the deed records of the county in which the site is located an instrument setting out the determination and releasing the site from the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.098. Notification of Alteration or Demolition of Possible Landmark

(a) A state agency may not alter, renovate, or demolish a building possessed by the state that was constructed at least 45 years before the alteration, renovation, or demolition and that has not been designated a landmark by the committee, without notifying the committee of the proposed alteration, renovation, or demolition not later than the 60th day before the day on which the agency begins the alteration, renovation, or demolition.

(b) After receipt of the notice the committee may waive the waiting period; however, if the committee institutes proceedings to determine whether the building is a state archaeological landmark under Section 191.092 of this code not later than the 60th day after the day on which the notice is received by the committee, the agency must obtain a permit from the committee before beginning an alteration, renovation, or demolition of the building during the time that the committee's proceedings are pending.

(c) Should the committee fail to provide a substantive response within 60 days to a request for a review of project plans, application for permit, draft report review, or other business required under the Antiquities Code,¹ the applicant may proceed without further reference to the committee.

[Acts 1983, 68th Leg., p. 2009, ch. 364, § 10, eff. Sept. 1, 1983.]

¹ This chapter.

[Sections 191.099 to 191.130 reserved for expansion]

SUBCHAPTER E. PROHIBITIONS

§ 191.131. Contract or Permit Requirement

(a) No person, firm, or corporation may conduct a salvage or recovery operation without first obtaining a contract.

(b) No person, firm, or corporation may conduct an operation on any landmark without first obtaining a permit and having the permit in his or its possession at the site of the operation, or conduct the operation in violation of the provisions of the permit.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.132. Damage or Destruction

(a) No person may intentionally and knowingly deface American Indian or aboriginal paintings, hieroglyphics, or other marks or carvings on rock or elsewhere that pertain to early American Indian or aboriginal habitation of the country.

(b) A person who is not the owner shall not wilfully injure, disfigure, remove, or destroy a historical structure, monument, marker, medallion, or artifact without lawful authority.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.133. Entry Without Consent

No person who is not the owner, and does not have the consent of the owner, proprietor, lessee, or person in charge, may enter or attempt to enter on the enclosed land of another and intentionally injure, disfigure, remove, excavate, damage, take, dig into, or destroy any historical structure, monument, marker, medallion, or artifact, or any prehistoric or historic archeological site, American Indian or aboriginal campsite, artifact, burial, ruin, or other archeological remains located in, on, or under any private land within the State of Texas.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 191.134 to 191.170 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

§ 191.171. Criminal Penalty

(a) A person violating any of the provisions of this chapter is guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than \$50 and not more than \$1,000, by confinement in jail for not more than 30 days, or by both.

(b) Each day of continued violation of any provision of this chapter constitutes a separate offense for which the offender may be punished.

[Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.172. Civil Action by Attorney General

(a) In addition to, and without limiting the other powers of the attorney general, and without altering or waiving any criminal penalty provided in this chapter, the attorney general may bring an action in

the name of the State of Texas in any court of competent jurisdiction for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter, and for the return of items taken in violation of the provisions of this chapter.

(b) Venue for an action instituted by the attorney general lies either in Travis County or in the county in which the activity sought to be restrained is alleged to be taking place or from which the items were taken.

[Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.173. Civil Action by Citizen

(a) A citizen of the State of Texas may bring an action in any court of competent jurisdiction for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter, and for the return of items taken in violation of the provisions of this chapter.

(b) Venue of an action by a citizen lies in the county in which the activity sought to be restrained is alleged to be taking place or from which the items were taken.

[Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.174. Assistance From State Agencies and Law Enforcement Officers

(a) The chief administrative officers of all state agencies are directed to cooperate and assist the committee and the attorney general in carrying out the intent of this chapter.

(b) All state and local law enforcement agencies and officers are directed to assist in enforcing the provisions and carrying out the intent of this chapter.

[Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

TITLE 10. CAVES

CHAPTER 201. CAVERN PROTECTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

- 201.001. Policy.
- 201.002. Definitions.

SUBCHAPTER B. PERMITS

- 201.011. Permit Required.
- 201.012. Issuance of Permit.
- 201.013. Revocation.
- 201.014. Penalties.

SUBCHAPTER C. PROHIBITIONS

- 201.041. Vandalism.

Sec.

201.042. Sale of Speleothems.

201.043. Repealed.

Acts 1977, 65th Leg., p. 565, ch. 200, effective May 20, 1977, classified as Civil Statutes, art. 5415j, was repealed by § 9 of Acts 1979, 66th Leg., p. 2007, ch. 785, which by § 5 thereof incorporated the provisions of the 1977 Act into the Natural Resources Code by adding this Title 10 and Chapter 201, consisting of §§ 201.001 to 201.043.

SUBCHAPTER A. GENERAL PROVISIONS

§ 201.001. Policy

It is declared to be the public policy and in the public interest of the State of Texas to protect and preserve all caves on or under any of the land in the State of Texas, including tidelands, submerged land, and the bed of the sea within the jurisdiction of the State of Texas.

[Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.002. Definitions

In this chapter:

(1) "Cave" means any naturally occurring subterranean cavity, and includes or is synonymous with cavern, pit, pothole, well, sinkhole, and grotto.

(2) "Gate" means any structure, lock, door, or device located to limit or prohibit access or entry to any cave.

(3) "Speleothem" means a natural mineral formation or deposit occurring in a cave, and includes or is synonymous with stalagmites, stalactites, helictites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, plettes, flowstone, or other similar crystalline mineral formations commonly composed of calcite, epsomite, gypsum, aragonite, celestite, and other similar minerals and formations.

(4) "Owner" means a person who owns title to land on which a cave is located, including a person who owns title to a leasehold estate in the land.

[Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

[Sections 201.003 to 201.010 reserved for expansion]

SUBCHAPTER B. PERMITS

§ 201.011. Permit Required

No person may excavate, remove, destroy, injure, alter in any significant manner, or deface any part of a cave owned by the State of Texas, unless he

first obtains a permit under Section 201.012 of this code.

[Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.012. Issuance of Permit

The General Land Office may issue a permit under this subsection if the person seeking the permit furnishes the following information:

(1) a detailed statement giving the reasons and objectives for the excavation, removal, or alteration and the benefits expected to be obtained from the contemplated work;

(2) data and results of any completed excavation;

(3) the prior written permission from the state agency which manages the site of the proposed excavation;

(4) a sworn statement that he will carry the permit while exercising the privileges granted; and

(5) any other reasonable information which the General Land Office may prescribe.

[Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.013. Revocation

The General Land Office may for good cause revoke any permit issued under Section 201.012 of this code.

[Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.014. Penalties

(a) A person who violates Section 201.011 of this code is guilty of a Class B misdemeanor.

(b) A person who violates Section 201.012 of this code is guilty of a Class C misdemeanor and the permit shall be revoked.

[Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

[Sections 201.015 to 201.040 reserved for expansion]

SUBCHAPTER C. PROHIBITIONS

§ 201.041. Vandalism

(a) A person may not, without express, prior, written permission of the owner, wilfully or knowingly:

(1) break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material in a cave, including speleothems;

(2) disturb or alter in any manner the natural condition of any cave; or

(3) break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction de-

signed to control or prevent access to any cave, even though entrance to the cave may not be gained.

(b) A person who violates a provision of this section is guilty of a Class A misdemeanor, unless he has previously been convicted of violating this section, in which case he is guilty of a felony of the third degree.

[Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.042. Sale of Speleothems

(a) A person may not sell or offer for sale any speleothems in this state, or export them for sale outside the state, without written permission from the owner of the cave from which the speleothems were removed.

(b) A person who violates this section is guilty of a Class B misdemeanor.

[Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.043. Repealed by Acts 1981, 67th Leg., p. 2725, ch. 741, § 2(2), eff. Jan. 1, 1982

See, now, Civil Statutes, art. 4477-9a, § 2.03.

Section 4 of the 1981 repealing act provides:

"This Act takes effect January 1, 1982, and applies only to offenses committed on or after that date. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed and the prior law is continued in effect for that purpose. An offense is committed before the effective date of this Act if any element of the offense occurs before that date.

*

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